

Daniels, IV, Zonie

January 28, 2016

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IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

TRACY JAHR, BRENDA §
THOMAS, TIMOTHY LEE YORK, §
AND W. BRETT ROARK, §
§ CIVIL ACTION
Plaintiffs, § NO. 2:14-cv-01884-MJP
§
VS. §
§
UNITED STATES OF AMERICA, §
§
Defendant. §

ORAL DEPOSITION OF
ZONIE DANIELS IV
JANUARY 28, 2016

ORAL DEPOSITION OF ZONIE DANIELS IV, produced as a witness at the instance of the Plaintiffs and duly sworn, was taken in the above styled and numbered cause on Thursday, January 28, 2016, from 1:43 p.m. to 4:07 p.m., before Tamara Chapman, CSR, RPR, CCR (LA) in and for the State of Texas, reported by computerized stenotype machine, at the of the United States Attorney's Office, 816 Congress, Suite 1000, Austin, Texas, pursuant to the Federal Rules of Civil Procedure and any provisions stated on the record herein.

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| <p style="text-align: center;">6</p> <p>1 Q. Okay. 2 A. That I can remember at least. 3 Q. Now, have you been instructed at all on 4 how this is going to work in a question-and-answer 5 format? 6 A. Yes. 7 Q. Okay. I'm going to go over it again just 8 a little bit just to make sure we're all on the same 9 page for the record here. 10 So, first and foremost, it's really 11 important that because there is a transcript being 12 made, that we try our best not to talk over each 13 other. Even if you know where I'm going with the 14 question, if I haven't finished yet, let me finish 15 and then answer. And I will do my best not to talk 16 over you if another question pops in mind. 17 Do you understand that? 18 A. Uh-huh. 19 Q. Also, it's important to say yes or no in 20 response to questions. Uh-huh, huh-uh does not work 21 for the court reporter. It's going to make her life 22 hard, and we have to take care of her first and 23 foremost -- 24 A. Okay. 25 Q. -- so that she can get an accurate record</p> | <p>1 most likely. 2 So have you -- when you were deposed 3 before, this was when you were a minor. Is that 4 right? 5 A. Yes. 6 Q. Okay. Have you -- and these are just 7 general questions I have to ask. 8 Have you ever been arrested? 9 A. No. 10 Q. Have you ever been a party to a civil 11 lawsuit? 12 A. No. 13 Q. When were you born? 14 A. August 24th, 1984. 15 Q. Where was that? 16 A. In Nagpur City, Philippines. 17 Q. And where did you grow up? 18 A. Williamsburg, Virginia. 19 Q. When did you move to the United States? 20 A. Oh, man, that's a rough one. Like 1990 or 21 something like that. 22 Q. Okay. Were your parents in the military? 23 A. Yes. 24 Q. And when did you join the military? 25 A. 2003. November 14, 2003.</p> |
| <p style="text-align: center;">7</p> <p>1 of what is being said in this proceeding. 2 A. Okay. 3 Q. As far as the questions go, if you answer 4 a question that I ask, I'm going to assume that you 5 understood it. But if you don't understand a 6 question, it's important that you let me know. Don't 7 answer it and ask me to clarify it, and I'll try to 8 do that. 9 Do you understand that? 10 A. Okay. 11 Q. It's possible that at times the lawyer to 12 your left is going to say "Objection" when I've asked 13 a question. Unless she instructs you not to answer, 14 I will except you to go ahead and answer the question 15 if you can. Now, if you can't, again, if you don't 16 understand it, be sure and let me know that. 17 A. Okay. 18 Q. I don't think there is going to be 19 anything here that's going to involve privilege, but 20 if she does instruct you not to answer, then it's 21 important that you don't answer. 22 Do you understand that? 23 A. Yes. 24 Q. Okay. If I forget any of the other 25 general rules, I'll let you know and correct myself,</p> | <p>9</p> <p>1 Q. What was your highest level of education 2 outside the military that you attained? 3 A. Outside the military? College. I mean, a 4 bachelor's degree. Right now I have a master's 5 degree, but... 6 Q. Where did you get your bachelor's degree? 7 A. Virginia State University. 8 Q. A Hokie. 9 A. No, no. 10 Q. Oh, Virginia Tech I'm thinking of. 11 Virginia State. Where is Virginia State? 12 A. That's Trojans. 13 Petersburg, Virginia. 14 Q. Okay. I've got cousins who went to 15 college in Virginia, but I can't keep track of any of 16 them, so... 17 And what was your degree in? 18 A. History. 19 Q. What is your master's in? 20 A. Diplomacy. Master's of arts in diplomacy. 21 Q. It was a master's of what? I'm sorry? 22 A. Master's of arts. 23 Q. A master's of arts. And where did you get 24 that? 25 A. Norwich University.</p> |

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| <p>1 Q. Where is that? 2 A. In Vermont. 3 Q. When did you get that? 4 A. I just finished September of last year. 5 Q. So September 2015? 6 A. Yes. 7 Q. And are you currently stationed in 8 Vermont, or were you? 9 A. No, no. It was all online. 10 Q. Okay. I didn't think there was huge Army 11 presence in Vermont, but... 12 A. No. No. 13 Q. Okay. So, if you don't mind, just going 14 to the military, could you maybe even give a list of 15 the duty stations that you've been at in sequential 16 order? 17 A. Yeah. Fort Stewart in 2007. August -- do 18 you want to count enlisted time? So I'll start from 19 my enlisted time then. 20 So Sampson, Virginia, when I was enlisted 21 in 2003. 22 Q. Okay. 23 A. And then in 2007, Fort Stewart in Georgia. 24 Q. Okay. So when did you go to OCS? 25 A. I didn't go to OCS. I was ROTC.</p> | <p>10</p> <p>1 So 2000- -- I have to go back a little bit 2 now because 2007 actually is Fort Knox for OCS -- or 3 OBC. Excuse me. OBC. And then -- 4 Q. What does OBC stand for? 5 A. Officer basic course. 6 Q. Okay. 7 A. So then after that, it was 2008 at Fort 8 Stewart. And then I left Fort Stewart in 2011 -- no. 9 2012 was my last official, like, day of -- in Fort 10 Stewart. 11 Q. Okay. And where did you go then? 12 A. From there, I went to Fort Polk, 13 Louisiana. It should have been January of 2012. 14 Q. Where did you go after that? 15 A. And then after that, Fort Benning, Georgia 16 in 2013, late 2013. 17 Q. When next? 18 A. Fort Hood at the beginning -- in 2014, 19 yeah. 2014, Fort Hood, Texas. 20 Q. And that's your current station. Correct? 21 A. Current station, yeah. 22 Q. And do you have any particular education 23 or training that you received for your position in 24 the Army? 25 A. Well, yeah. You go through the armor</p> |
| <p>11</p> <p>1 Q. Okay. 2 A. So I was ROTC and currently with the 3 National Guard. 4 Q. I shouldn't pretend like I know anything 5 about military terminology. So that much -- 6 MS. JOHNSON: That's a good try. 7 Q. (BY MR. BROOK) Okay. So you went to -- 8 to ROTC, and that was at Virginia State? 9 A. Virginia State, yes. 10 Q. And so then you enlisted out of that? 11 A. I commissioned after? 12 Q. Commissioned after? 13 A. Yeah. 14 Q. Okay. So when you said "enlisted time" -- 15 A. Enlisted time -- sorry. I enlisted in the 16 Army in 2003, and then in 2007 is when I commissioned 17 as an officer versus being enlisted. 18 Q. Okay. 19 A. Because you only got the E ranks and you 20 got the O ranks. 21 Q. Okay. I understand now. Thank you. 22 So not counting any of the enlisted time. 23 So Fort Stewart in 2007. I'm sorry. Did you say 24 after that? 25 A. No. I didn't get to there.</p> | <p>13</p> <p>1 officer basic course, which is -- kind of teaches you 2 how to be an armor officer because I'm an armor 3 officer. And then after that, you go -- 4 Q. Just to be clear, you're saying armor, 5 A-R-M-O-R -- 6 A. Yes. 7 Q. -- as in, like, tanks and such? 8 A. Right. Right. 9 Q. Okay. 10 A. And then you go to the Maneuvers Captains 11 Career Course, which is what combat arms officers 12 kind of go to in order to learn their craft a little 13 better and then to potentially, later on, take 14 command, which is what I'm doing now. 15 Q. Okay. And have you been deployed? 16 A. Yes, I have. 17 Q. When was that? 18 A. I went in 2008 to Iraq. 19 Q. Okay. 20 A. 2010 -- 21 Q. How long was that for? 22 A. Say it again. 23 Q. How long were you deployed for in 2008? 24 A. About -- around six months. 25 Q. And in 2010?</p> |

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| <p style="text-align: center;">14</p> <p>A. 2010.</p> <p>Q. To Iraq again?</p> <p>A. Yes, to Iraq again. And that was for about nine months.</p> <p>Q. That was my next question.</p> <p>A. About nine and a half, something like that.</p> <p>Q. Okay. And then were you ever deployed again?</p> <p>A. I was deployed again. So Afghanistan in 2012. Yeah, 2012.</p> <p>Q. Is that one of reasons why you went to a different base, was for deployment to a different --</p> <p>A. No. It was just time for -- for PCS.</p> <p>Q. And as a -- what does that stand for again?</p> <p>A. Permanent change of station.</p> <p>Q. Permanent change of station. So they like to move you around?</p> <p>A. Yeah. It's military.</p> <p>(Discussion off the record.)</p> <p>Q. So we've covered that. And was there any sort of other reason given for why the change of base?</p> <p>So the Army just doesn't tell you what's</p> | <p>A. It was -- so it's the rear detachment, which is a combination of all the companies within the squadron.</p> <p>Q. So I am very ignorant of the Army in terms of all the command structures and such, so I apologize if -- but I think it might be helpful for me to understand since you're, I think, an expert on this.</p> <p>MR. BROOK: Not an expert witness literally, just for the record, to be clear.</p> <p>Q. (BY MR. BROOK) But to help me understand some of these basics of things because you were fairly senior there.</p> <p>So within the context of an Army company, can you explain how -- sort of the responsibility of managing soldiers is distributed?</p> <p>A. Okay. So, I mean, you have a chain of command. So typically at the company level, you'll have a captain, which is what I would be; and then you'll have a first sergeant, which is an E-8, which would be your senior enlisted advisor; and then, from there, you would have platoon sergeants within that company that manages all those other soldiers that's within that company.</p> <p>Q. Okay. And how many, you know, people</p> |
| <p style="text-align: center;">15</p> <p>1 going on?</p> <p>A. No, no. Well, you change in order to progress your career. So I'm moving on to go and do other things within my career.</p> <p>Q. Okay.</p> <p>A. Yeah.</p> <p>Q. Now, when did you get promoted to captain?</p> <p>A. March of 2010. I'm sorry. No. It was 2011. Sorry.</p> <p>Q. And is that when you assumed command of the 6-8 Cavalry Squadron?</p> <p>A. No. That was April. About mid-April is when I came and took the position.</p> <p>Q. Okay. Do you know if that was made, like, retroactive or something to an earlier date?</p> <p>A. So I came back from -- I mean, from, like, R&R around March. But then I came back, and I was told to take the command of the rear detachment around my block leave time frame. So I'm pretty sure it was around April.</p> <p>Q. Okay. And how many people were under your command at that point?</p> <p>A. Something around -- between 120, 140.</p> <p>Q. So was that an entire company, then, that you had command of?</p> | <p style="text-align: center;">17</p> <p>1 would there oftentimes be in a platoon typically, for your experience?</p> <p>A. So, I mean, it just depends on what -- like, for an armor -- armor company, for myself, it would be 16 per platoon, which is led by a platoon leader and a platoon sergeant.</p> <p>Q. Does the platoon leader have a particular rank usually?</p> <p>A. Lieutenant.</p> <p>Q. And am I right that when you come out of sort of officer training and such, you're at the rank of lieutenant?</p> <p>A. Uh-huh. Yes.</p> <p>Q. Those are like little -- those are just graduated or not super-experienced --</p> <p>A. Right.</p> <p>Q. -- officers, then?</p> <p>A. Right.</p> <p>Q. Okay. And underneath them, there would be 15 or so people, including a sergeant who is typically, I guess, as a noncommissioned officer?</p> <p>A. Right. Right. You have an E-7. And within that platoon, though, you have multiple other NCOs. So you would have other tank commanders, so you -- typically, the platoon sergeant's an E-7, and</p> |

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| <p style="text-align: center;">18</p> <p>1 then you have two other tank commanders, which would 2 typically be an E-6, and then a platoon leader. 3 Those are your TCs typically. 4 Q. Okay. 5 A. And then from there you have gunners, who 6 are typically all E-5s. So all those guys would be 7 NCOs as well. 8 Q. Okay. And just to make sure it's clear 9 not only for me but for the record -- so E-16 is a 10 staff sergeant? 11 A. Right. 12 Q. And E-5 is a sergeant. Right? 13 A. Right. 14 Q. And then below that, it's corporal, 15 private first class, second-class private, and then 16 private? Is that right? 17 A. Yeah. And specialist as well. So 18 corporal and then specialist kind of go hand in hand. 19 Q. Okay. And how does someone be a 20 specialist or a corporal? 21 A. A corporal is -- it could be laterally 22 done by a company commander if that specialist shows 23 the ability to come in and CO. 24 Q. And so while they're a specialist, that's 25 sort of evaluation period for figuring out whether --</p> | <p style="text-align: center;">20</p> <p>1 given by a commissioned officer. 2 Q. Okay. And -- so there's multiple NCOs for 3 each platoon with a number of, I guess, subordinates? 4 What do you call the guys who are at the bottom? Is 5 there an acronym for that? 6 A. Privates. 7 Q. Just privates. Okay. 8 A. No. Subordinates too. 9 Q. Okay. So because it's privates and 10 specialists -- 11 A. Right. 12 Q. -- that are in that group? 13 A. Right. 14 Q. Does every NCO have responsibility for 15 every private in a platoon? 16 A. I mean -- so they don't have specific -- I 17 guess you could say yes, but at the same time, 18 it's -- every NCO is in charge of a certain amount of 19 soldiers. And, you know, you have -- like that E-6 20 would be in charge of his crew, but because -- I 21 mean, he's still a noncommissioned officer, so he's 22 still in charge of ensuring the soldier is doing the 23 right thing. 24 Q. Now, is it the case that there are -- a 25 given private, are they, you know, sort of required</p> |
| <p style="text-align: center;">19</p> <p>1 A. No, not necessarily. So, I mean, it's 2 just a E-4, and then that E-4 may just show that 3 potential much better than another E-4, and then you 4 could get laterally promoted by myself or the first 5 sergeant to a corporal, and that's really it. 6 You know, it would just give them the 7 stripes as an NCO. 8 Q. Okay. 9 A. And from that point, it would give him a 10 little bit more leverage, like within -- like a 11 platoon, if you might say -- 12 Q. Okay. So a corporal -- 13 A. -- with exceptions. 14 Q. -- is sort of higher than a specialist, 15 but it's not really. 16 A. But it's not. They're the same rank. 17 Yeah. 18 Q. Okay. Thank you. I really am learning a 19 lot here. 20 So do the NCOs sort of function as a 21 management in the context of an Army company? 22 A. Yes. I mean, they manage the soldiers, 23 and then, at the same time, they also help train the 24 soldiers and ensure that administrative tasks are 25 completed. And they would execute guidance to us</p> | <p style="text-align: center;">21</p> <p>1 to follow the instructions of multiple different NCOs 2 at one time, or is there someone who's sort of the 3 primary for each outfit? 4 A. So every private will have a chain of 5 command that they would follow. Obviously, if a 6 noncommissioned officer was to say, "Hey, you're 7 doing something wrong," they have to listen to you 8 because you're a noncommissioned officer and he is a 9 subordinate. 10 But that private does have a chain of 11 command that he would talk to and follow instructions 12 from that -- from that specific chain of command. 13 Q. So there wouldn't be a situation where 14 there's two NCOs who are directly supervising a 15 private -- 16 A. No. 17 Q. -- as primary? 18 A. No. 19 Q. And if an NCO who is not the primary 20 supervisor for a private observes infractions or 21 insubordination by a private, is there a 22 responsibility on the part of that NCO to report to 23 it the primary NCO? 24 A. It's their job to be -- to report anything 25 that privates or any other soldier is doing. They're</p> |

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| <p>22</p> <p>1 noncommissioned officers, so they have to do that.</p> <p>2 Q. So if an NCO observes a private repeatedly</p> <p>3 not showing up for duty, is that acceptable to not</p> <p>4 report it?</p> <p>5 A. No. You have -- they have to report it.</p> <p>6 Q. Okay. Do they have any discretion not to</p> <p>7 report that?</p> <p>8 A. No. They have to report anything at a --</p> <p>9 if there is something that a soldier is doing that is</p> <p>10 wrong, immoral, unethical, anything like that, it's</p> <p>11 their duty as a noncommissioned officer to ensure</p> <p>12 that, one, either it's addressed or is reported to</p> <p>13 that soldier's specific chain of command, and then</p> <p>14 that soldier's chain of command would handle whatever</p> <p>15 the situation is.</p> <p>16 Q. Would you consider a private not showing</p> <p>17 up for duty to be a minor infraction?</p> <p>18 A. Not showing up for duty?</p> <p>19 Q. Yes.</p> <p>20 A. I guess it depends on how long they</p> <p>21 disappear. If they just happen to, like, oversleep</p> <p>22 or something, yes, it's a minor infraction. But if</p> <p>23 they just outright don't show up...</p> <p>24 Q. So if it's a recurring problem, does</p> <p>25 that -- can that be a minor infraction for someone to</p> | <p>1 soldier?</p> <p>2 A. I mean, a lot of that is subjective. So</p> <p>3 it's all situation dependent.</p> <p>4 So you're saying if an NCO doesn't report</p> <p>5 something that somebody else does, is that a problem?</p> <p>6 Q. Yes.</p> <p>7 A. Yes. I mean, of course it's a problem.</p> <p>8 Because that person is a noncommissioned officer, it</p> <p>9 has to be reported, or they have to abide by the</p> <p>10 noncommissioned officer's creed.</p> <p>11 Q. Okay. And just, again, so I'm clear, if</p> <p>12 an NCO determines that it's a minor infraction, that</p> <p>13 someone just overslept and missed showing up for</p> <p>14 formation, is that something that they can decide not</p> <p>15 to report?</p> <p>16 A. I mean, that's up to them because that's</p> <p>17 their chain of command. So it doesn't have to go all</p> <p>18 the way up to the CO. You know, it could be</p> <p>19 something that -- they have a noncommissioned officer</p> <p>20 and a soldier. The soldier doesn't show up to PT or</p> <p>21 something like that, and then it could be something</p> <p>22 that he takes care of at his level.</p> <p>23 Q. Okay. So -- and then -- so a sergeant who</p> <p>24 sees a private who doesn't show up for PT, that</p> <p>25 sergeant could decide to deal with it at his level</p> |
| <p>23</p> <p>1 repeatedly not show up for duty?</p> <p>2 A. No. It then turns into potentially UCMJ</p> <p>3 actions if it's reoccurring often.</p> <p>4 Q. Okay.</p> <p>5 A. The first few times, it may just be a</p> <p>6 counseling or a negative counseling. But if it's</p> <p>7 continuously happening, it then turns into a UCMJ</p> <p>8 action.</p> <p>9 Q. Now, is the fact that someone has already</p> <p>10 been the subject of UCMJ action something that is</p> <p>11 important for an NCO to consider when deciding</p> <p>12 whether or not to, you know, consider an infraction</p> <p>13 minor or insignificant?</p> <p>14 A. So, I mean, if it's a troubled soldier,</p> <p>15 yes. It then becomes like an issue where -- where</p> <p>16 the soldier is continuously still either</p> <p>17 disrespecting orders from either commissioned</p> <p>18 officers or noncommissioned officers. So then it</p> <p>19 does become -- it gets taken up to a higher level as</p> <p>20 far as punishment, you might say.</p> <p>21 Q. Right. And if someone has had that prior</p> <p>22 history and then an NCO doesn't report that</p> <p>23 infraction that subsequently occurs, is that going to</p> <p>24 be a problem for the commanding officer to be able to</p> <p>25 decide what to do with someone who's been a troubled</p> | <p>25</p> <p>1 rather than reporting it is what you're saying?</p> <p>2 A. Right. Right.</p> <p>3 Q. Okay. So I'm trying to understand, when</p> <p>4 is it something that has to be actually reported up</p> <p>5 the chain of command?</p> <p>6 A. If it continuously happens.</p> <p>7 Q. Now, is there any sort of specific rule,</p> <p>8 or is that just a judgment call as to whether</p> <p>9 continuous or repeated problems are something that</p> <p>10 has to be reported?</p> <p>11 A. I mean, you kind of build a packet on a</p> <p>12 soldier. So you build a packet, and once you build</p> <p>13 that packet, if there's a certain amount of</p> <p>14 infractions, you just -- you have to kind of come to</p> <p>15 a point where you're like, "All right. Does this</p> <p>16 soldier" -- "is this soldier understanding these</p> <p>17 counselings I'm giving him?" If he's not getting</p> <p>18 these counselings or understand these counselings,</p> <p>19 you then have to escalate it to where the soldier</p> <p>20 receives UCMJ action.</p> <p>21 Q. So is there a requirement, though, like,</p> <p>22 there's a certain number, like five times or ten</p> <p>23 times, when sergeants are instructed that they have</p> <p>24 to report it further up the chain of command?</p> <p>25 A. No. I mean, there's no number. That's</p> |

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| <p style="text-align: center;">26</p> <p>1 all discretionary at the level of the chain of 2 command.</p> <p>3 Q. Okay. Now, what about, as far as the UCMJ 4 goes, if a sergeant knows that there's a pattern of 5 misconduct by a private but they intentionally do not 6 report that because they want to protect the private 7 from the consequences that they know will be dealt to 8 the person? Is that a problem?</p> <p>9 A. Yes. That's a problem for -- for the -- 10 definitely for a noncommissioned officer.</p> <p>11 Q. Is that a violation of the UCMJ?</p> <p>12 A. Yes.</p> <p>13 Q. Do you know what part of the UCMJ?</p> <p>14 A. I'm not sure exactly the article or 15 nothing, but I would have to, like, actually look 16 into it as far as what article that would be.</p> <p>17 Q. Would it surprise you if that was not a 18 violation of the UCMJ?</p> <p>19 A. Yes. But at the same time, there's many 20 ways you can kind of look into it as far as what UCMJ 21 actions could be taken.</p> <p>22 Q. What is the NCO's creed?</p> <p>23 A. Well, I don't know it, but it's something 24 that the NCOs specifically know, and they live by 25 that.</p> | <p style="text-align: center;">28</p> <p>1 sergeant within the headquarters platoon.</p> <p>2 Q. How many platoon sergeants are there?</p> <p>3 A. Four. So you have the headquarters, 4 first, second, third.</p> <p>5 Q. And is it common practice to have a 6 private that's assigned to the headquarters platoon?</p> <p>7 A. Yes.</p> <p>8 Q. Okay. How many?</p> <p>9 A. It all depends on -- on the unit. So, I 10 mean, typically you'll have a supply clerk, you'll 11 have drivers. Like, the first arms driver, my 12 driver, or the CO driver, commo rep. It varies from 13 unit to --</p> <p>14 Q. Is being a private in the headquarters 15 platoon an important job?</p> <p>16 A. I would say yes.</p> <p>17 Q. Is it important to maintain, I guess, rule 18 and order among the people in the headquarters 19 platoon?</p> <p>20 A. Yes.</p> <p>21 Q. So if someone is displaying a pattern of 22 not showing up for duty in the headquarters platoon 23 and they're a private in that platoon, is that a 24 problem for the platoon?</p> <p>25 A. I'm sorry. State it again.</p> |
| <p style="text-align: center;">27</p> <p>1 Q. Okay. Is this written down somewhere 2 that --</p> <p>3 A. Yes.</p> <p>4 Q. -- you can look it up?</p> <p>5 Okay. What is the headquarters platoon?</p> <p>6 A. So headquarters platoon is typically the 7 platoon -- so within a company, you have 8 headquarters, you've got first platoon, second 9 platoon, third platoon, like that. Headquarters is 10 typically the guy that's like -- commo guy, training 11 room guy, typically the first armor commander, a few 12 of the -- the supply, the MOSs that aren't like the 13 combat arms guys.</p> <p>14 Q. Okay. So that would not include you as a 15 captain?</p> <p>16 A. I'm in the headquarters.</p> <p>17 Q. Okay.</p> <p>18 A. But I am combat arms, but I am -- I'm part 19 of the headquarters because I'm in the headquarters 20 of my company.</p> <p>21 Q. So is everyone at --</p> <p>22 A. It's hard to explain.</p> <p>23 Q. Is everyone in the headquarters platoon 24 then reporting to you?</p> <p>25 A. No, no. So they also have a platoon</p> | <p style="text-align: center;">29</p> <p>1 MR. BROOK: Go off the record for 2 a second.</p> <p>3 (Discussion off the record.)</p> <p>4 Q. (BY MR. BROOK) I think I may have asked 5 the wrong question, then.</p> <p>6 Within just the headquarters platoon, how 7 many sergeants are there?</p> <p>8 A. Man. Now, are you talking specifically 9 like at Fort Stewart where I was or just in general?</p> <p>10 Q. I'm talking about -- let's go to 11 specifics.</p> <p>12 Based on what you said, you were in the 13 headquarters platoon for the 6-8 Cavalry at Fort 14 Stewart. Correct?</p> <p>15 A. No -- well -- so at Fort Stewart, I was 16 the rear detachment commander, so --</p> <p>17 Q. So there's multiple --</p> <p>18 A. So that's a little different, and that's a 19 whole different setup. Like a company versus rear 20 detachment, everything is totally different.</p> <p>21 Q. Okay. So for each company, what was the 22 rank of the person who was in -- commander for the 23 company at Fort Stewart?</p> <p>24 A. At -- at 6-8 in the rear detachment or in 25 general?</p> |

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| <p style="text-align: center;">30</p> <p>1 Q. At the 6-8 in rear detachment. 2 A. Okay. So typically, I think it was -- it 3 was normally a staff sergeant because, of course, 4 commanders and everything is forward in Iraq. So it 5 was -- it was a -- whatever staff sergeant was left 6 behind by that company was what was in the position.</p> <p>7 Q. Okay. So the staff sergeant for each 8 company then was under the UCMJ, the commander. Is 9 that right?</p> <p>10 A. See, it's hard -- it's different for a 11 rear detachment. So they're not the commander, but 12 they -- they're in charge of the soldiers in that 13 formation. That's I guess how I can say it, is 14 they're in charge of those -- they're the NCYCs of 15 that company's set of soldiers.</p> <p>16 Q. Okay. So for each of those sets of 17 soldiers, is that the person who needs to make any 18 decision about whether an infraction gets reported or 19 not?</p> <p>20 A. Yes. Yes.</p> <p>21 Q. Can anyone subordinate to that soldier 22 make that decision about whether it gets reported or 23 not?</p> <p>24 A. If there is another NCO within that unit, 25 yes, they could.</p> | <p style="text-align: center;">32</p> <p>1 about killing the President of the United States even 2 in a joking manner? 3 A. I mean, it would in their -- in their duty 4 as a soldier of the United States to report that.</p> <p>5 Q. And is the same true for harming anyone 6 else in the United States military?</p> <p>7 A. Right.</p> <p>8 Q. Is there any sort of difference between 9 threatening to kill a civilian and threatening to 10 kill a fellow soldier in terms of the soldier's 11 duties to report that up the chain?</p> <p>12 A. No. I mean, if somebody is threatening to 13 kill anybody, you report it.</p> <p>14 Q. And what if someone was actually not just 15 threatened to kill but has agreed to kill someone 16 else and even bought a gun to do that? Is that 17 something that that soldier, I guess -- would that 18 soldier be violating the UCMJ by going through those 19 measures and going that far as to buy a gun to kill 20 someone?</p> <p>21 MS. JOHNSON: I'm going to object 22 as to form. 23 If you understand, you can answer. 24 MR. BROOK: I don't even 25 understand what I said there. I'm going to</p> |
| <p style="text-align: center;">31</p> <p>1 Q. Can anyone subordinate to an NCO make a 2 decision about whether to report an infraction or 3 not? 4 A. If they have somebody that is below them, 5 yes, they could report that. 6 I mean, in all actuality, if a soldier is 7 seeing something that is not right, is not ethical, 8 is not -- it's not moral, they could report that. 9 Q. Okay. When do they have to report that? 10 A. When they're -- it's all kind of like -- 11 it's all subjective. So if a soldier sees something 12 that is wrong, he could report it. 13 Q. Now, again, I'm using a somewhat loaded 14 hypothetical here, but if a soldier -- one private 15 hears another private talking about killing 16 civilians, is that something that that soldier can 17 decide not to report? 18 A. I mean, it would be in his duty to report, 19 and any human being would probably want to report 20 that. I mean, honestly. 21 Q. Can you think of any reason why a soldier 22 would not report that and that would be okay? 22 A. I don't see why a soldier would not report 23 that. 24 Q. What if someone overheard someone talking</p> | <p style="text-align: center;">33</p> <p>1 withdraw the question and restate it. 2 Q. (BY MR. BROOK) Let's suppose a soldier 3 has agreed to kill someone with another soldier who 4 is a civilian. Is that something that is a violation 5 of the UCMJ? 6 A. I would have to look at the articles, but, 7 I mean, I'm sure it would be. 8 Q. Okay. Is that something where, if -- if 9 one of the soldiers under your command had agreed 10 with another soldier under your command to kill 11 someone and had taken steps towards doing that, is 12 that something where they would be referred for UCMJ 13 action? 14 A. I mean, an investigation would have to be 15 put in place. I mean, those are the -- I can't 16 specifically -- like, on something on that level, I 17 can't just go, "Hey, I'm giving UCMJ action." There 18 would have to be some form of an investigation -- 19 Q. Right. 20 A. -- that would have to come -- that would 21 have to take place, and then the findings of that 22 investigation would then cause the -- whatever the 23 UCMJ action is or administrative action would be. 24 Q. Okay. I just want to step back now. I 25 got a little sidetracked from trying to first</p> |

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| <p>34</p> <p>1 understand the chain of command a little bit. 2 Is the term "first line superior" a term 3 that's used in --</p> <p>A. So first line is typically like the first person that soldier goes to.</p> <p>Q. Okay. And for the typical private -- I mean, is that something where they're told, "This person is your first line superior"?</p> <p>A. Right.</p> <p>Q. Okay. And I'm trying to understand if -- is there a record of who's first line supervisor that's kept by the headquarters group?</p> <p>A. I mean, we have a -- we would have a -- kind of a chain of command hierarchy, but that would be really at the platoon level or that section's level to -- to determine what their chain of command's going to be.</p> <p>Q. So it's not something where -- that you can think of there is a document somewhere that would say, "Back in 2011, what was the chain of command for, you know, the headquarters platoon for the 6-8 Cavalry, one of the companies"?</p> <p>A. Right. I don't think I'd be able to tell you exactly what soldier reported to what person and all that stuff. Yeah.</p> | <p>36</p> <p>1 like E-4, E-5, it's like, I think, four weeks, if I 2 can remember right. And then, as you go higher, it 3 gets a little longer.</p> <p>Q. So I just want to ask you a few questions about some different names of people from Fort Stewart to see who you know and -- like that, because I don't want to ask you a whole bunch of questions about people you have no idea who they are.</p> <p>I had a list on that.</p> <p>MR. BROOK: Thank you.</p> <p>Q. (BY MR. BROOK) Let's start with Lieutenant Colonel Hadley.</p> <p>A. He was the battalion commander -- or squadron commander when I left.</p> <p>Q. So did he take over for you then? Is that how it worked?</p> <p>A. No. So he's the actual squadron commander. So's an O-5. So I'm an O-3, but he's an O-5. So he was the actual squadron commander, and he was forward -- actually, I'm sorry. No. He took over after.</p> <p>So he took over after -- he took over the squadron I think in 2000- -- late 2011, something like that. It might have been October of 2011. Something like that.</p> |
| <p>35</p> <p>1 Q. In your experience, speaking generally, 2 not just at Fort Stewart, did the company NCOs 3 consult each other or discuss soldier's disciplinary 4 problems and how to address them, or do they resolve 5 such problems on their own?</p> <p>A. I would say probably yes. I mean, they -- I don't see why they wouldn't. I mean, in -- I guess in the way soldiers -- or NCOs may look to another NCO to gain an understanding of how they should handle a situation maybe, especially if it's a new NCO. If it's a young NCO that's having an issue, he may go to a senior NCO and say, "Hey, I'm having this issue with somebody. What should I do?"</p> <p>Q. Is there training that's given to NCOs about how the deal with troubled soldiers under their command?</p> <p>A. I mean, they all go to -- a lot of it's really just learning experiences, quite honestly. They do go to their own NCO schooling, like AOC.</p> <p>Q. Do you know how long that lasts?</p> <p>A. I don't know exactly how long it actually is. I'm not sure exactly how long it is.</p> <p>Q. Okay. Is it a matter of weeks or months or --</p> <p>A. I think it depends on the echelon. So for</p> | <p>37</p> <p>1 Q. And were you still in your same position 2 at that point?</p> <p>A. At that point I was the -- I was in the S-3 shop. Just an assistant S-3.</p> <p>Q. So what does that mean, S-3?</p> <p>A. Just operations.</p> <p>Q. Okay. So stepping back. So at some point you did assume command of the 6-8 Cavalry squadron in April 2011. Is that right, just to go back?</p> <p>A. Yes, as the -- as a rear detachment commander.</p> <p>Q. And then when did you change position from that to something else?</p> <p>A. Around July. July I went -- kind of went to the S-3 shop.</p> <p>Q. Went to the S-3 shop?</p> <p>A. Yes.</p> <p>Q. That's still at Fort Stewart. Right?</p> <p>A. Yes, it's still at Fort Stewart. It's all within the same unit.</p> <p>Q. Okay. And how many people are in the S-3 shop?</p> <p>A. I really couldn't tell you how much -- how much it was there. Probably anywhere between 10 and 20 guys.</p> |

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1 Q. At that point did you retain any command
 2 over the people who were in the cavalry squadron rear
 3 detachment?

4 **A. No, no.**

5 Q. Who took over after you for the rear
 6 detachment?

7 **A. So what happens after -- there was no more**
 8 **rear detachment after everybody comes back. So the**
 9 **rear detachment -- if you don't mind me going into**
 10 **what the rear detachment is for.**

11 Q. Yeah. Why don't we start with that?

12 **A. So the rear detachment is typically made**
 13 **for a unit that's deploying forward to, like, Iraq,**
 14 **Afghanistan, whatever, wherever it is that they're**
 15 **going, but they -- it's made specifically because**
 16 **these specific soldiers stay back and don't go into**
 17 **deployment.**

18 **So somebody has to be in charge of all**
 19 **those soldiers. So that's why a rear detachment is**
 20 **made, and then a rear detachment OIC or commander is**
 21 **put into the position.**

22 Q. Okay. So what happened in July then?
 23 Was -- everyone came back?

24 **A. Yeah. Everybody came back in July. So**
 25 **then there was like -- Rear D was no more.**

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1 they were just still being supervised by their
 2 company commander?

3 **A. Right.**

4 Q. I think I finally get it now, the
 5 situation.

6 So would you communicate with the company
 7 commanders about soldiers that were in the Rear D?

8 **A. I would communicate primarily with either**
 9 **their company commanders or the -- the squadron XO or**
 10 **the squadron commander. So those are the main people**
 11 **that I would talk to if -- if I was having an issue**
 12 **or if I needed to talk to somebody about specific**
 13 **issues with a soldier or something, that's who I**
 14 **would talk to.**

15 Q. So the squadron XO and the squadron
 16 leader, those were people who were deployed?

17 **A. Right. Yeah. They'd be deployed.**

18 Q. Okay. So now I got to go through some
 19 more of those names.

20 Isaac Aguigui?

21 **A. Right. So he was in the S-2 shop when I**
 22 **was there.**

23 Q. And what does the S-2 shop do?

24 **A. The military intelligence section.**

25 Q. Is a security clearance required to work

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1 Q. I guess that was the part I was missing,
 2 that everyone came back.

3 **A. Yeah.**

4 Q. Okay. So at that point, then -- so you
 5 stopped having the same supervisory responsibilities
 6 over those 140 or so soldiers in July of 2011?

7 **A. Right.**

8 Q. Okay. Who took over for you in terms of
 9 supervising those people?

10 **A. So they all went back to their companies.**

11 Q. Okay. Okay. So I think I now understand.
 12 So the rear detachment portion, they have their
 13 companies that included people here and fighting
 14 abroad, but when they remained here, they were sort
 15 of an ad hoc company of sorts underneath your
 16 command. Is that right?

17 **A. Right. Yeah. It's just all the companies**
 18 **leave a certain amount of soldiers back. So every**
 19 **soldier that they leave back comes to the Rear D, and**
 20 **then they're kind of left in their little company**
 21 **formations, but they're back here versus being**
 22 **forward.**

23 Q. Because, otherwise, they would be in the
 24 awkward position of being under the command of
 25 someone who wasn't even in the country, right, if

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1 in that?

2 **A. Yes.**

3 Q. What level?

4 **A. I'm not sure exactly if it has to be TS,**
 5 **but it's secret. At least a secret, from my**
 6 **understanding.**

7 Q. And TS stands for top secret. Right?

8 **A. Yeah. Right.**

9 Q. Again, just for the transcript. That one
 10 I actually knew.

11 Anthony Peden?

12 **A. He worked in the S-3 shop.**

13 Q. And did he work there while you were
 14 working there too?

15 **A. He was already there when I got there. So**
 16 **yes.**

17 Q. What were his responsibilities?

18 **A. He was kind of just like an ops NCO pretty**
 19 **much.**

20 Q. What is an NTO?

21 **A. NCO, operations NCO.**

22 Q. Okay. Operations NCO?

23 **A. Right. And just kind of try to help**
 24 **facilitate information that comes from brigade or**
 25 **whatever.**

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| <p style="text-align: right;">42</p> <p>1 Q. Did he have any training responsibilities? 2 A. No, not really, because we weren't 3 training in the Rear D. 4 Q. Did he have any reason to be shooting a 5 weapon in his position? 6 A. Then, no. I mean, I think he's an 7 infantryman. I'm not sure if he was an infantryman 8 or a 19 delta. But he -- in the Rear D -- I guess -- 9 are you asking me what -- like, before or, like, 10 while I was there? 11 Q. I'm asking, you know, while he was there 12 with you in 2011. 13 A. Right. Absolutely. He had no reason to 14 have a weapon. But, I mean, every soldier is -- 15 you're allowed to have a weapon if you so choose to 16 have one, as long as it's registered. 17 Q. And where does the weapon get registered? 18 A. Depends on the state. And, typically -- 19 it's in Georgia, so you have to register your weapon. 20 Q. So registered with the state? 21 A. Right. 22 Q. Does the weapon have to be registered with 23 the base? 24 A. If he lives on post. 25 Q. Okay. And if you're off post, there is no</p> | <p style="text-align: right;">44</p> <p>1 have their name recorded? 2 A. So they don't record people's names as 3 they come on post. They -- you know, as long as 4 they're with somebody that is allowed to come on 5 post, they're typically allowed on post. 6 Q. Okay. Next name, Michael Burnett? 7 A. Uh-huh. 8 Q. Do you know that name? 9 A. I do know the name. He -- I'm trying to 10 remember where he worked. I think he worked in the 11 S-6 shop, I believe, which is the communications 12 shop. 13 Q. S-6 is communications? 14 A. Right. 15 Q. How about Christopher Salmon? 16 A. When I got there, he worked in the S-1 17 shop, which is the administrative shop. Or personnel 18 shop. 19 Q. So what do they do? 20 A. Just personnel actions is the -- basically 21 all the -- ensuring that documents are -- are 22 completed properly, and it's the administrative 23 portion of the Army, I guess you could say, yeah. 24 Q. So they're the ones -- do they keep track 25 of each soldier's personnel file?</p> |
| <p style="text-align: right;">43</p> <p>1 requirement to -- 2 A. Right. 3 Q. -- register? 4 Now, if someone wants to bring it on with 5 a conceal and carry permit from off base, is that 6 something where they have to let the base know that 7 they're bringing a weapon onto the base? 8 A. You can't bring a weapon on post unless 9 it's registered on post. 10 Q. Are there ever, you know, inspections to 11 try to figure out whether there's unregistered 12 weapons on base? 13 A. Yeah. They'll do that at the gate. 14 They'll do, like, random inspections to see if people 15 have stuff. 16 Q. Now, when people are coming in the gate, 17 is everyone who's in the car required to sign in or 18 just one person for, say, a car of four people? 19 A. Typically, if they're all soldiers, they 20 show their ID. But if it's somebody that's not a 21 soldier, they would either have to go to the visitor 22 center to get kind of been through, and they'll be 23 able to come on post. 24 Q. Is there any reason why if a minor, say, 25 was coming in onto base, that that person would not</p> | <p style="text-align: right;">45</p> <p>1 A. Yes. 2 Q. Do you know if Chris Salmon had access to 3 those files to be able to, you know, say, remove a 4 document if he wanted to? 5 A. I'm trying to remember if he did. He 6 worked in the S-1 shop. I just don't -- I'm not 7 exactly sure if he had access to all that stuff. 8 Q. Okay. Are there security provisions in 9 place to try to protect the information in the S-1 10 group? 11 A. Yes. Yes. 12 Q. Are there soldiers whose job it is to 13 secure that information, or no? 14 A. Well, I mean, it -- so if they're in S-1 15 shop, yes, they have the -- what am I trying to say? 16 They have to secure the documents. You can't just 17 let people, you know, pass the desk and stuff like 18 that. 19 Q. How about the name Heather Salmon? Do you 20 know that one? 21 A. Well, I'm assuming that's his -- his wife, 22 but, no, I didn't know her. 23 Q. Okay. Have you heard of her since you 24 were there? 25 A. I think I heard her name, but I never met</p> |

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her or nothing.

Q. Christopher Jenderseck?

A. I believe he's a medic, but I do remember him, yeah. He was in the -- I think he was deployed with us. I'm not sure if he was deployed with us or not, but I believe he was.

Q. Okay. How about Adam Dearman?

A. Dearman, I don't know that one.

Q. Anthony Garner?

A. I don't know that one.

Q. Timothy Joiner?

A. I don't think I know that one, no.

Q. Richard Teegardin?

A. No.

Q. Stephen Payne?

A. No.

Q. Erica Romeo or Romeo [pronouncing]?

A. I remember a Romeo, but I don't know if that's the one. Is that a female?

Q. Female.

A. Yes. I don't know -- I don't know a female Romeo.

Q. It was Specialist Romeo, I think.

A. Yeah. I don't know.

Q. Michael Schaefer?

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basis because he was in headquarters?

A. A little bit. Actually, we enlisted him.**But yeah. Not a whole lot, but I did interact with him.**

Q. Would you be able to recognize him if you saw him?

A. Oh, yes.

Q. Okay. In that case I will take a slight detour, and I'm going to show you a video that's been marked as Exhibit 3 previously. I want to ask you if you can identify the people who are in this.

MR. BROOK: If it's okay with opposing counsel, I'm only going to play the first couple of minutes, not the second half. Is that okay?

MS. JOHNSON: Let me think about the video for a minute.

MR. BROOK: Okay. I'll let you know when I'm planning to stop, and you can tell me.

MS. JOHNSON: Yeah.

(Playing video.)

MR. BROOK: Now we've played the first 2 minutes and 20 seconds of what was marked as Exhibit 3.

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A. Schaefer, Schaefer, Schaefer. I think I kind of remember Schaefer.

Q. I think he went AWOL during --

A. Was he E-5?

Q. I don't know if that's the case, but does the name Michael Schaefer, who went AWOL --

A. Well, Schaefer sounds familiar, but I'm not sure if that's him.

Q. I'm trying my best, but we both need to try not to talk over each other. We both need to be conscious of that.

Okay. John Dodds.

A. No.

Q. Scott Zipp?

A. Zipp, yes. I know him.

Q. And who was Zipp?

A. Man, what was he? He was the -- I think he was the CBRNE NCO. Yeah. He was our CBRNE NCO in the headquarters.

Q. And what did he do in headquarters?

A. He was a -- oh, so he's a NBC guy. So nuclear, biological, chemical. Now it's called CBRNE, which is a little different.

Q. So is he someone where -- you know, did you ever -- did you interact with Zipp on a frequent

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Q. (BY MR. BROOK) Were you able to recognize the people who were in the video?

A. I don't know who the driver was, but, I mean, the other one was definitely Zipp.

Q. Okay.

A. At least from that side profile, it looks just like him.

Q. And did it sound like him?

A. I can't really remember the voice specifically, but I think it sounded like him, yeah.

Q. And I think in the video he did refer to him as Zipp a few times as well?

A. Yeah.

Q. Do you know a Sergeant First Class Lapsley?

A. I don't even know who that is.

Q. Do you think that may have been a made-up name?

A. I'm not sure.

Q. It's not a name you've ever heard before?

A. No.

Q. Had you ever seen that video before?

A. No, I haven't seen that before.

Q. Did you have any involvement in an investigation into whether Sergeant Zipp had

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| <p style="text-align: center;">50</p> <p>1 committed a misconduct with respect to supervising 2 Private Aguigui?</p> <p>3 A. I don't believe so. I don't remember.</p> <p>4 No, I don't think so.</p> <p>5 Q. Okay. So just going back to the name 6 Isaac Aguigui, I'm guessing that, you know, since you 7 didn't recognize him in that video, that you did not 8 have much one-on-one interaction with him?</p> <p>9 A. Well, I'm not going to say I didn't have a 10 lot of interaction with him, but I just didn't 11 recognize him in that one, no.</p> <p>12 Q. Okay. So it's not someone where you would 13 recognize him just by his voice?</p> <p>14 A. Right. Right. I'd recognize his face, 15 but I don't think I'd recognize his voice too much.</p> <p>16 Q. Right. And where the camera was on that, 17 you couldn't see the driver?</p> <p>18 A. Right.</p> <p>19 Q. So next on the list is Nathan or Nate 20 McNew?</p> <p>21 A. McNew. I don't know that one.</p> <p>22 Q. Jeffrey Roberts?</p> <p>23 A. No.</p> <p>24 Q. Michael Adkins?</p> <p>25 A. I don't think so.</p> | <p style="text-align: center;">52</p> <p>1 A. I might know Castleton. If he was an E-5, 2 I think -- I think he was like the S-2 NYCYC, if that 3 was him. I think.</p> <p>4 Q. So then he would have been the first line 5 supervisor for Private Aguigui in S-2?</p> <p>6 A. If that's the one I'm thinking about, yes, 7 he would be one of his NCOs.</p> <p>8 Q. Okay. How about Nicole Castleton, 9 Specialist Castleton?</p> <p>10 A. Is that his wife? No. I don't really 11 know his wife, so yeah.</p> <p>12 Q. James Davis?</p> <p>13 A. James Davis.</p> <p>14 Q. I believe PFC.</p> <p>15 A. No.</p> <p>16 Q. How about PFC Kelly Davis?</p> <p>17 A. No.</p> <p>18 Q. Anthony Almaguer?</p> <p>19 A. No.</p> <p>20 Q. Specialist Alex Holland?</p> <p>21 A. Alex Holland. I don't think so.</p> <p>22 Q. Specialist Pierre Robertson?</p> <p>23 A. Nope.</p> <p>24 Q. Private Edwin Mendez?</p> <p>25 A. I don't think so. But, I mean, like --</p> |
| <p style="text-align: center;">51</p> <p>1 Q. Vincent Rolstand?</p> <p>2 A. I don't know him.</p> <p>3 Q. Geraldo Villarreal?</p> <p>4 A. No.</p> <p>5 Q. David Rosario?</p> <p>6 A. Rosario sounds familiar.</p> <p>7 Q. I believe he was private first class or 8 may have been a specialist.</p> <p>9 A. Yeah. The Rosario sounds familiar, but I 10 can't remember exactly what -- I know he was low 11 enlisted, but I'm not exactly sure what the rank was.</p> <p>12 Q. Okay. And does anything about the name or 13 person sound familiar? Like, what do you remember 14 about him?</p> <p>15 A. I don't remember anything derogatory about 16 him for that way.</p> <p>17 Q. Anything positive?</p> <p>18 A. He was kind of just like he showed up and 19 did his job, and that was it. So nothing like stands 20 out to me as far as for Rosario.</p> <p>21 Q. Okay. And for his position, that's a good 22 thing. Right?</p> <p>23 A. Right.</p> <p>24 Q. Richard Castleton? I believe he was a 25 sergeant.</p> | <p style="text-align: center;">53</p> <p>1 there's Mendezes -- I think I've known Mendezes, so I 2 don't know.</p> <p>3 Q. What would -- this is just definitional. 4 If someone referred to the entire S-2 section of HHC 5 6-8 CAV, what does that refer to?</p> <p>6 A. The entire section of S-2? It would be 7 the S- -- lists everybody that works within the S-2 8 shop if somebody's referring to the entire S-2 shop.</p> <p>9 Q. Okay. So is that a platoon, or what is 10 that --</p> <p>11 A. It's a section, so --</p> <p>12 Q. How many people is that, approximately?</p> <p>13 A. I really don't -- I actually don't know 14 how many personnel would be within the S-2 shop. I 15 know like the specific -- like the -- I guess the -- 16 the main people that would be there would be a 17 captain and -- E-7 or E-8 or something. Actually -- 18 excuse me. E-7, N-2 IC, and then -- and a few other 19 NCOs, but the specifics on what exactly the numbers 20 would be, I'm not sure.</p> <p>21 Q. Is it more than ten?</p> <p>22 A. Probably around ten, I would think.</p> <p>23 Q. And does that include -- that's including 24 NCOs and --</p> <p>25 A. And soldiers, yeah.</p> |

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| <p style="text-align: center;">54</p> <p>1 Q. Now, is that something that there would be 2 records on, what section people were assigned to at a 3 given point in time?</p> <p>4 A. For the rear detachment?</p> <p>5 Q. Yes.</p> <p>6 A. Okay. For the rear detachment. It may 7 be. I'm not exactly sure, but it might be. It would 8 be like call rosters, stuff like that. That's the 9 only thing I could think of specifically.</p> <p>10 Q. Okay. And, otherwise, you're just relying 11 on people's memories. Is that right?</p> <p>12 A. Yeah. Pretty much.</p> <p>13 Q. Okay. Because it's not like rank and 14 grade where it's something that shows up everywhere?</p> <p>15 A. No.</p> <p>16 Q. A few other names that maybe you know. 17 Nicholas Arranyos?</p> <p>18 A. I can't -- I'm not sure. I don't think 19 so, though.</p> <p>20 Q. Stephen Lloyd?</p> <p>21 A. Lloyd, Lloyd, Lloyd. Specialist or -- 22 does it say PFC? I'm not sure, but Lloyd sounds 23 familiar. So -- I've known a few Lloyds within the 24 6-8. So I'm not sure --</p> <p>25 Q. What is the guy you're thinking of look</p> | <p style="text-align: center;">56</p> <p>1 deployment?</p> <p>2 A. Multiple reasons. Personal issues, 3 injuries. They're about to get out of the Army as an 4 ETS, stuff like that.</p> <p>5 Q. Do you recall the reason why Glen Hall 6 came back early from deployment?</p> <p>7 A. I don't remember, no.</p> <p>8 Q. Is disciplinary problems while deployed a 9 reason to have them come back from deployment early?</p> <p>10 A. Yes. So if that person is about to get 11 chaptered, yeah, that could be a reason.</p> <p>12 Q. What do you mean by "chaptered"?</p> <p>13 A. Like administrative leave, remove them 14 from the Army.</p> <p>15 Q. Does "chaptered" ever mean anything less 16 than being removed from the Army?</p> <p>17 A. Anything less?</p> <p>18 Q. Like a less significant, nonjudicial 19 punishment. Would that be something that someone 20 might refer to as being chaptered?</p> <p>21 A. Well, I mean, you could get chaptered in 22 multiple different ways. There's -- you could be 23 through UCMJ, or it could be through the med board 24 process, or it could be administrative leave remove 25 them or, again, chaptered. Those are, like, the main</p> |
| <p style="text-align: center;">55</p> <p>1 like?</p> <p>2 A. Black dude, taller than me. That's the 3 only thing I can really --</p> <p>4 Q. Does about 6-foot sound right?</p> <p>5 A. Maybe. I'm not sure exactly, but he was 6 taller than me.</p> <p>7 Q. I think that's the guy. What do you 8 remember about him?</p> <p>9 A. Not a whole lot. He was -- I think he was 10 on his way out of the Army when -- when I got there.</p> <p>11 Q. Do you know why?</p> <p>12 A. No. I'm not sure. Not that I can 13 remember.</p> <p>14 Q. Glen Hall?</p> <p>15 A. Glen Hall. Oh, yeah, I remember that.</p> <p>16 Q. Who was he?</p> <p>17 A. He was -- I believe he came back early 18 from the deployment. He was in the Rear D, one of 19 the soldiers. I think he was a -- he was a fueler in 20 the deployment, but I think he came back early as 21 well.</p> <p>22 Q. So what does a fueler do?</p> <p>23 A. Fuel vehicles.</p> <p>24 Q. Exactly as it sounds.</p> <p>25 Why would someone come back early from</p> | <p style="text-align: center;">57</p> <p>1 things.</p> <p>2 Q. Okay. Is being chaptered always 3 involuntary, or does that include voluntary sort of 4 discharges as well?</p> <p>5 A. Yes. It's both.</p> <p>6 Q. Last name -- it's -- I think just a last 7 name is all I have, is a Watson-Smokes?</p> <p>8 A. So that Watson-Smokes sounds familiar, but 9 I don't remember anything about that person.</p> <p>10 Q. It's an unusual name. Correct?</p> <p>11 A. Exactly. So I remember hearing that, but 12 I just don't know anything about that person.</p> <p>13 Q. Okay. Could he have been someone who was 14 under your command?</p> <p>15 A. Potentially. I'm not sure, though.</p> <p>16 Q. Now I want to just talk a little bit more 17 about supervision of soldiers. We talked a little 18 bit about reporting and such.</p> <p>19 If you learned that a soldier was planning 20 to become an active shooter at Fort Stewart, what 21 would you do about that?</p> <p>22 A. So, I mean, that -- that -- I would 23 probably call CID or the MPs, one of the two. Yeah. 24 More than likely, either CID or the MPs, one of the 25 two I would be calling.</p> |

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16 (Pages 58 to 61)

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1 Q. Okay. Is this something that, you know,
 2 you receive training on as to what to do if a soldier
 3 is presenting a danger to himself and other soldiers
 4 like that?

5 **A. So, I mean, I don't think that we've,**
 6 **like, really received formal training on that. It's**
 7 **more of as -- as things have happened in the Army,**
 8 **we've started a -- kind of learned the process of**
 9 **what we need to do in order -- for certain things.**

10 Q. Is this something that in 2011 you were
 11 aware of what to do?

12 **A. I guess, yes. I mean, if I knew something**
 13 **like that was happening, I would call the MPs or CID.**

14 Q. And if soldiers -- you know, any other
 15 soldier in the Army is aware of that, is that
 16 something where they should also be calling the MPs
 17 or CID?

18 **A. I mean, they could do -- they could that,**
 19 **or they can go straight to their chain of command.**

20 Q. So it's one or the other?

21 **A. Yes. And from there, it would be their**
 22 **chain of command, like me calling CID, MPs.**

23 Q. Okay. So if a soldier hears another
 24 soldier say, "I've mapped out the sewer system at
 25 Fort Stewart on how to get away from when I become an

60

1 **to -- I really don't know on that one.**

2 Q. Okay. That's fine. It's not a test.

3 Who would you go to to find out whether
 4 you're under a duty to report something like that or
 5 to find out whether you're under -- whether someone
 6 could be punished for failing to follow through on
 7 that duty?

8 **A. Well, I would go to legal advisors.**

9 Q. So that's a question of interpreting the
 10 UCMJ?

11 **A. Right. Right.**

12 Q. So I'm going to ask you now about Chris
 13 Salmon a little bit more. Do you recall that he had
 14 a disciplinary issue while you were in command?

15 **A. Yes. Once.**

16 Q. What was that issue?

17 **A. He was basically -- he -- because when I**
 18 **came to become the rear detachment commander, at some**
 19 **point he -- he put in a voucher, a travel voucher**
 20 **saying that he was deployed, but he never deployed.**
 21 **So, yeah, I gave him some disciplinary action for**
 22 **that.**

23 **I don't remember exactly what, but --**

24 **I think it was Article 15. But I don't remember**
 25 **exactly what, though, but I do remember him doing**

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1 active shooter there," is that something that that
 2 soldier has a duty to report, or can they just ignore
 3 it and see what happens?

4 **A. No. I mean, they have a duty to report**
 5 **stuff like that.**

6 Q. And do you know where that duty comes
 7 from?

8 **A. Just being a soldier. I mean, those are**
 9 **things you can take oath under.**

10 Q. Okay. So the oath to protect and defend
 11 the Constitution --

12 **A. Right.**

13 Q. -- that plays a part in reporting
 14 something of that nature?

15 **A. Right.**

16 Q. Would a soldier who fails to report
 17 something like that potentially be in trouble for not
 18 doing so if someone ended up getting hurt later?

19 **A. I really don't know on that one. I can't**
 20 **specifically answer. I'm not sure.**

21 Q. Okay. So you think there's a duty, but
 22 it's not necessarily something that's punishable if
 23 you don't follow through. Is that right?

24 **A. I don't know. I can't really quite give**
 25 **you an answer on that because I'm not -- I would have**

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1 **that, and he was punished because of it.**

2 Q. Do you remember what his punishment was?

3 **A. I don't remember exactly, no.**

4 Q. Was he being chaptered out of the Army?

5 **A. I don't remember on that one, because I**
 6 **know he -- afterwards he started the chapter process.**
 7 **So that was at that point after the rear detachment**
 8 **was done.**

9 Q. So after July 2005 --

10 **A. Right. After July he started going**
 11 **through the chaptered process, yeah.**

12 Q. Try to wait for me to finish the question.

13 **A. Okay.**

14 Q. Just want to try to make her life easier
 15 and this transcript clear.

16 So after July 2011 he began the chaptering
 17 out process is your understanding?

18 **A. Yes.**

19 Q. Okay. And how did you come to have that
 20 understanding?

21 **A. Because I was still in the unit, so I**
 22 **would just see what -- kind of what's happening.**

23 Q. How long does that process typically take?

24 **A. It depends on -- really, it depends on a**
 25 **whole lot of things. For UCMJ actions or**

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17 (Pages 62 to 65)

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| <p>62</p> <p>1 administrative chapters, there's a lot of factors 2 that goes into it.</p> <p>3 Q. And do you know the reasons why he was 4 being chaptered out?</p> <p>5 A. I don't remember. And I'm thinking maybe 6 part of it was -- was that -- the whole travel 7 voucher thing.</p> <p>8 Q. Do you know if the travel voucher incident 9 was reported to CID?</p> <p>10 A. I don't remember. No, I don't remember.</p> <p>11 Q. When is sort of the decision? Or how do 12 you decide whether to report something to CID or to 13 just handle it internally?</p> <p>14 A. So it depends. If it's -- let's say 15 something that is SHARP related, sexual harassment, 16 stuff like that, that I immediately take that to CID.</p> <p>17 And, of course, if it's a crime, that's something I 18 would report to CID or MPs.</p> <p>19 Q. Did you consider what Private Salmon did 20 to be a crime?</p> <p>21 A. It's all kind of subjective. So, like, on 22 this specific one, I don't remember if I actually 23 reported it to the MPs or CID or not, but I think for 24 this one we actually just began the Article 15 25 process for him, gave him his UCMJ actions for what</p> | <p>64</p> <p>1 A. So they're talking about the same thing. 2 Q. It's just a technicality?</p> <p>3 A. Right. 4 Q. Do you recall what the amount was that he 5 had tried to get --</p> <p>6 A. No. I totally don't remember that one, 7 no.</p> <p>8 Q. Was it a lot?</p> <p>9 A. I don't remember.</p> <p>10 Q. Okay.</p> <p>11 A. It was enough for me to say -- to, you 12 know, have a -- some type of Article 15 on it, so --</p> <p>13 Q. Do you remember how he got caught?</p> <p>14 A. I looked through all the vouchers as stuff 15 was getting processed, so that was how he got caught.</p> <p>16 Q. Okay.</p> <p>17 MS. JOHNSON: Is now an okay time 18 for a break.</p> <p>19 MR. BROOK: Yeah. That would be a 20 great idea.</p> <p>21 Let's go off the record.</p> <p>22 (Break.)</p> <p>23 (Exhibit 4 was marked.)</p> <p>24 Q. (BY MR. BROOK) I'm showing you what's 25 been marked as Exhibit 4. Do you recognize this</p> |
| <p>63</p> <p>1 he did.</p> <p>2 Q. Now, who would be able to say what the 3 reasons were for him then being chaptered out after 4 July 2011?</p> <p>5 A. Whoever his -- the -- well, his commander 6 at that time. So I don't remember what -- I think he 7 went to HHC, but I don't remember exactly what 8 company he went -- he went back to.</p> <p>9 Q. What does HHC stand for?</p> <p>10 A. Headquarters and headquarters troop.</p> <p>11 Excuse me. So it's HHT.</p> <p>12 Q. HHT.</p> <p>13 A. Yeah.</p> <p>14 Q. So that's headquarters and headquarters 15 troop?</p> <p>16 A. Right.</p> <p>17 Q. What does HHC stand for?</p> <p>18 A. Company. The C is the company. Since we 19 were in a squadron, everything is troop versus 20 company.</p> <p>21 Q. So if someone said "HHC," they would have 22 been saying the wrong thing?</p> <p>23 A. Well, I mean, they would probably just say 24 it because they're used to saying HHC versus HHT.</p> <p>25 Q. Right.</p> | <p>65</p> <p>1 document?</p> <p>2 A. Uh-huh.</p> <p>3 Q. Is that a yes?</p> <p>4 A. Oh, yes. I'm sorry.</p> <p>5 Q. And what is this document?</p> <p>6 A. So this was for Salmon, and it was a -- a 7 sworn statement for me writing saying that he did not 8 deploy with the unit and his TUI was an unauthorized 9 claim.</p> <p>10 Q. What does "TUI" mean?</p> <p>11 A. Oh, for -- say you filed a travel voucher 12 after you return from a deployment, and his was 13 unauthorized.</p> <p>14 Q. So TUI refers to travel voucher?</p> <p>15 A. Well, temporary duty.</p> <p>16 Q. T -- this says TDY?</p> <p>17 A. Right. Right.</p> <p>18 Q. Okay.</p> <p>19 A. I was just saying the travel voucher 20 specifically.</p> <p>21 Q. And as far as you can tell, this document 22 is accurate and complete?</p> <p>23 A. Yes. Yes.</p> <p>24 Q. So now I'd like to turn the conversation 25 to Private Isaac Aguigui. How Would you characterize</p> |

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18 (Pages 66 to 69)

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1 him as a soldier?

2 **A. So I guess knowing -- what I know now,**
3 **it's a little different, but beforehand I didn't have**
4 **any issues -- well, let me take that back. As a**
5 **soldier, he wasn't bad, but he did do things that**
6 **caused him to get in trouble.**

7 Q. Do you recall what those things were?

8 **A. Yes. I mean, he would show up late**
9 **multiple times. One day he peeled off of the parking**
10 **lot in his car. Those are some of the things that I**
11 **remember specifically.**

12 Q. Why is peeling off in his car a problem?

13 **A. Because that was because after -- that was**
14 **after he received some type of disciplinary talking**
15 **to from an NCO about either coming up -- showing up**
16 **late or something in that nature. I don't remember**
17 **exactly what, but it was something in that -- in that**
18 **realm.**19 Q. Okay. And I guess one name I didn't
20 mention before, but I should, is Michael Roark. Do
21 you know that name?22 **A. Yes. Yes.**

23 Q. Was he under your command as well?

24 **A. I don't remember if he actually was**
25 **because -- I'm pretty sure he was -- he was already**

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1 **authority.**2 Q. Okay. So before anything happened, you
3 would have to fill out a form, I guess, for an UCMJ
4 action?5 **A. Right. Right.**6 **(Exhibit 5 was marked.)**7 Q. (BY MR. BROOK) So I'm going to show you
8 now what has been marked as Exhibit 5. Do you
9 recognize this document?10 **A. Yep.**

11 Q. What is this document?

12 **A. So this is the Article 15 that I gave for**
13 **Aguigui, I think. Yeah. Aguigui, yep. Company**
14 **grade Article 15 for failure to report, reckless**
15 **driving, underage drinking.**16 Q. And am I missing it, or is there no date
17 on this form?18 **A. I don't see a date.**19 Q. Do you remember approximately when this
20 was?21 **A. No. I don't remember the date on this**
22 **one.**23 Q. Was it unusual for a soldier under your
24 command to receive an Article 15?25 **A. I mean, it wasn't unusual, but in the rear**

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1 **out of the Army when I got there. But I know him**
2 **just because of the obvious stuff that's happened.**

3 Q. So you think he wasn't --

4 **A. I don't remember if he was or not. And if**
5 **he was, he was like on his way out. I know he was --**
6 **he was out of the Army when I think that thing**
7 **happened with him.**

8 Q. Right. You mean when he was killed?

9 **A. Right.**10 Q. Would it surprise you to know that he was
11 only discharged three days before he was killed?12 **A. I don't think it would surprise me, but I**
13 **just don't remember exactly, you know, when -- when**
14 **he was killed.**15 Q. Now, were you personally involved in
16 supervising him for any disciplinary issues?17 **A. Roark?**

18 Q. Yes.

19 **A. No, not that I know of.**20 Q. Was it unusual for you to get involved in
21 disciplinary issues for privates?22 **A. Well, I would have to just because I was**
23 **their rear detachment commander. So like every**
24 **disciplinary action, when it comes the UCMJ, it would**
25 **come up to me, and I would be, like, the signing**

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1 **detachment, a lot of guys are -- are troubled**
2 **soldiers pretty much. That's -- a lot of guys in**
3 **rear detachment would be soldiers that are having**
4 **specific issues or, you know, on their way out of the**
5 **Army, yeah, like I was saying before.**6 Q. So during your time in command of the rear
7 detachment from April 2011 through July 2011, do you
8 recall how many of these forms you had to fill out?9 **A. No, I don't remember. No.**10 Q. If you had to approximate, was it more
11 than five?12 **A. I don't think it was that much.**

13 Q. It would have been a handful?

14 **A. Yes.**15 Q. Do you recall any of the other
16 individuals' names who you --17 **A. The only ones I could really remember was**
18 **Aguigui and Salmon. I don't remember any other ones**
19 **that I can remember off the top of my head.**20 Q. So what is the difference between a
21 company grade Article 15 and a field grade Article
22 15?23 **A. So company grade is typically handled at**
24 **the company commander's level, so -- which would be a**
25 **captain, and then field grade would be handled at**

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19 (Pages 70 to 73)

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| <p style="text-align: center;">70</p> <p>1 higher levels with higher punishments. So it would 2 be O-5 level.</p> <p>3 Q. So what would the rank be for those 4 people, 0-5?</p> <p>5 A. Lieutenant colonel.</p> <p>6 Q. So in this case, that's your signature at 7 the bottom of this, Exhibit 5. Is that right?</p> <p>8 A. Yes.</p> <p>9 Q. And you didn't have to run that by anyone 10 else to issue this?</p> <p>11 A. No, not for a company grade.</p> <p>12 Q. Do you recall what the punishment was that 13 was given to Aguigui?</p> <p>14 A. I don't remember the punishment, no.</p> <p>15 Q. All right. 16 (Exhibit 6 was marked.)</p> <p>17 Q. (BY MR. BROOK) I'm going to show you what 18 has been marked Exhibit 6.</p> <p>19 MR. BROOK: And this is bearing 20 Bates No. JAHR0008443. And I'll just note for 21 the record that I think the other exhibits, just 22 due to a printing error, the Bates number's cut 23 off at the bottom, and they were produced in a 24 similar range by the government.</p> <p>25 Q. (BY MR. BROOK) Do you recognize this</p> | <p>1 in and somebody did it for me.</p> <p>2 Q. Okay. But that is your signature on 3 there?</p> <p>4 A. That is my signature, though.</p> <p>5 Q. Okay. And do you remember this field 6 grade Article 15?</p> <p>7 A. Yes. Yes. I don't remember the specifics 8 on the field grade, but I do remember somewhat of 9 what the field grade was for, yeah.</p> <p>10 Q. Would you explain what the summary of the 11 offenses means? And just maybe read it and then 12 explain what it is.</p> <p>13 A. All right. So possession of a registered 14 weapon on post.</p> <p>15 So, one, the reason why it was an 16 infraction was because, one, it was unregistered and 17 it was on post. So I mean, that's just -- he 18 violated the Army policy.</p> <p>19 Q. And he also violated state law?</p> <p>20 A. Yes. If it was -- I don't remember if it 21 was unregistered -- well, if it was an unregistered 22 weapon, yeah. So state law as well.</p> <p>23 Q. Okay. Now, was there ever any discussion 24 about reporting this to state authorities or anything 25 like that?</p> |
| <p style="text-align: center;">71</p> <p>1 document, sir?</p> <p>2 A. Yes.</p> <p>3 Q. And what is this?</p> <p>4 A. So this is a field grade for Aguigui.</p> <p>5 Q. Okay. And this -- do you recall whether 6 this was before or after the company grade?</p> <p>7 A. I'm sure this was after the company grade.</p> <p>8 Q. Okay. And let me ask you this. If you 9 look at Exhibit 5 and Exhibit 6, unless I am 10 mistaken, it's different handwriting. Is that right?</p> <p>11 A. For?</p> <p>12 Q. For all of it. Or am I not correct on 13 that?</p> <p>14 A. Oh, you're talking about at the bottom?</p> <p>15 Yeah.</p> <p>16 Q. I mean -- let me ask you this, then. Is 17 this your handwriting on --</p> <p>18 A. So this one -- this right here is my 19 handwriting. This is my signature.</p> <p>20 Q. What are you pointing at?</p> <p>21 A. Oh, okay. Exhibit 5. So that is my 22 handwriting on the bottom where I wrote in my name. 23 And then the second one on Exhibit 6, that's my 24 signature block. That's not my handwriting there. 25 But I'm sure it's because I probably forgot to put it</p> | <p>73</p> <p>1 A. I don't remember if this went to the MPs 2 or CID. I'm sure it probably did because 3 specifically on this type of thing, it -- the MPs are 4 likely informed, especially with the discharge on the 5 firearm, because I think I remember that one, and I 6 think that happened at his home, I believe.</p> <p>7 Q. Okay. And so that's the second offense on 8 there. Right?</p> <p>9 A. Yeah.</p> <p>10 Q. And what does it mean to be discharging 11 firearm through negligence?</p> <p>12 A. Because I think what happened there was, 13 if I could remember right, they were in their living 14 room or something, messing with the gun, and he had 15 neglect discharge it. He shot it on accident.</p> <p>16 Q. Do you know if anyone was hurt?</p> <p>17 A. I don't think so.</p> <p>18 Q. And what about the third offense there?</p> <p>19 A. I think -- I don't remember exactly what 20 the controlled substance was. It may have been -- I 21 can only think of two things it could have been. It 22 could have either been spice or marijuana, but I 23 don't remember which one.</p> <p>24 Q. Were both illegal?</p> <p>25 A. Right. Yes.</p> |

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20 (Pages 74 to 77)

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1 Q. And what is spice?
 2 **A. It's -- hmm. It's hard to explain what**
 3 **spice is. But it's -- basically it's like a**
 4 **potpourri kind of type stuff, and soldiers will smoke**
 5 **it, basically, and get high off of it, so -- and it**
 6 **was illegal. Or it is illegal. You can't have**
 7 **spice.**

8 Q. Okay. And it was your understanding at
 9 the time that that was also -- that at the time you
 10 also understood that it was illegal?

11 **A. Right.**

12 Q. And was it a violation of the UCMJ for
 13 Aguigui to possess it?

14 **A. Oh, yes.**

15 Q. Okay. At the time were you aware of
 16 whether or not Aguigui had other incidents where he
 17 had been using spice?

18 **A. Not that I can remember.**

19 Q. Was it typical practice when you were in
 20 command of the rear detachment that if someone had an
 21 issue with CID that was being investigated by CID,
 22 that CID would share information with you about what
 23 was going on and what they learned?

24 **A. So CID typically would say, "Hey, this is**
 25 **what is going on." And then from there they would**

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1 **A. I don't remember, no.**
 2 Q. Did you ever see any statements that
 3 Aguigui gave in writing to CID?
 4 **A. I don't remember. I probably did, but I**
 5 **don't remember.**
 6 Q. Why don't we look at one of those and see
 7 if it refreshes your recollection.
 8 I'm marking this as Exhibit 7.
 9 (Exhibit 7 was marked.)
 10 Q. (BY MR. BROOK) And what's been marked as
 11 Exhibit 7 is bearing Bates Nos. JAHR0021180 through
 12 JAHR0021183, four pages, and it's described as a
 13 sworn statement for official use only, law
 14 enforcement sensitive, statement of Isaac Aguigui.
 15 Have you seen this document before, sir?
 16 **A. I'm not sure if I have or not.**
 17 Q. Why don't you take a moment and read
 18 through it, and then let me know when you're done.
 19 **A. So I remember the situation, but I don't**
 20 **remember if I've seen this actual report before.**
 21 Q. Do you need more time to look through it
 22 or --
 23 MS. JOHNSON: Are you going to ask
 24 him specific questions about the content?
 25 MR. BROOK: I'm going to ask him

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1 **conduct their investigation, and at the very end,**
 2 **they'll come back and tell us -- they'll either give**
 3 **us a document or they'll tell us what their actual**
 4 **findings were. And then from there -- it depends on**
 5 **what the situation was. And then from there,**
 6 **they'll -- they'll either let us know if they're**
 7 **taking a soldier or apprehending a soldier or what**
 8 **have you, or if it could be solved at our level.**
 9 **They may push it to the chain of commander to handle**
 10 **the situation at their level.**

11 Q. Would they ever report information to you
 12 before they'd completed their investigation?

13 **A. They would -- they would call and let us**
 14 **know, "Hey, this is what's going on." But as far as,**
 15 **like, completing an investigation or, like, going**
 16 **really into the specifics, they typically don't tell**
 17 **us until they're either almost complete or if they**
 18 **need some extra information.**

19 Q. Do you recall receiving any calls from CID
 20 about Isaac Aguigui?

21 **A. I don't recall any specific phone calls,**
 22 **but I'm sure I did.**

23 Q. Do you remember what it was that CID was
 24 investigating Aguigui for while he was under your
 25 command?

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1 more about just what happened and may refer him
 2 to this if there is a question about it. Just
 3 what he remembers. So I'll ask my question, and
 4 why don't we see.
 5 Q. (BY MR. BROOK) Captain, do you recall
 6 whether you were informed about the fact that Aguigui
 7 had informed CID that he had been regularly using
 8 spice?
 9 **A. Man. Yeah, I don't think I remember**
 10 **specifically.**
 11 Q. Do you recall whether Aguigui was referred
 12 to the substance abuse program?
 13 **A. I would say he probably was. I don't**
 14 **remember if he -- if he was actually enrolled, but he**
 15 **probably was enrolled in ASAP.**
 16 Q. Were a lot of the soldiers in rear D
 17 enrolled in ASAP?
 18 **A. Well, if they were -- if they had a**
 19 **substance abuse issue, they would be in ASAP.**
 20 Q. So at the time that you issued your field
 21 grade Article 15 for Isaac Aguigui, were you aware at
 22 the time of whether or not he was already in ASAP?
 23 **A. I don't remember.**
 24 Q. Would that have been a factor that you
 25 needed to take into consideration?

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21 (Pages 78 to 81)

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1 **A. If he was already in ASAP and then he had
2 this substance abuse issue, that would probably play
3 a factor into why I gave him a field grade, except
4 for the -- I mean, aside from the charges being
5 actually pretty significant.**

6 **If it was just -- let's say, just the
7 wrongful possession and then I gave him a field grade
8 because he, like, failed out of ASAP or something, so
9 he'd be -- because it would be like a second offense,
10 that kind of thing.**

11 Q. Did you know at the time and when you were
12 in command of Isaac Aguigui in issuing two Article
13 15s that he had signed a sworn statement to CID that
14 he had plotted with fellow soldiers to kill a
15 civilian drug dealer and even bought a shotgun for
16 the purpose of doing so?

17 **A. Yeah, no. I didn't -- I don't really
18 remember the CID, like, conversations specifically.
19 But, I mean, I have been informed that he did talk
20 about this, so -- I just don't remember.**

21 Q. Okay. So you think that you were made
22 aware of this?

23 **A. I'm sure I probably was, but I just --
24 yeah, I don't remember on this one.**

25 Q. Okay. So is there any sort of record or

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1 soldier with respect to the substance of that
2 investigation?

3 **A. Well, I can't interfere with what they're
4 doing with the investigation. So that's -- yeah,
5 it's all CID at that point.**

6 Q. Okay. Do you know whether Private Aguigui
7 was reassigned because of any of the CID
8 investigations into him?

9 **A. No, I don't think he -- I don't think he
10 was reassigned. He was in our -- in our rear
11 detachment.**

12 Q. Okay. Do you know if at some point
13 Private Aguigui was demoted?

14 **A. I believe he was demoted after the field
15 grade Article 15.**

16 Q. Do you know what other punishment he was
17 given because of field grade Article 15?

18 **A. So likely, I mean, he was probably
19 confined to post. I don't remember the exact, so
20 more likely it was pay, confined to post,
21 restrictions, stuff like that. Extra duty.**

22 Q. And were you ever, as far as you can
23 recall, briefed on Isaac Aguigui's history at West
24 Point Academy?

25 **A. No. I don't think I -- I don't think I**

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1 log or anything that you may have kept that would
2 indicate whether or not you had been informed about
3 this conspiracy to commit murder situation?

4 **A. No. There wouldn't have been no, like,
5 documents I would have kept or nothing like that.**

6 Q. In your opinion, is it appropriate conduct
7 for a soldier, even one in rear D, to do what Isaac
8 Aguigui says that he did in this sworn statement?

9 **A. No, that's not appropriate behavior for
10 anybody.**

11 Q. In your opinion, what should happen to a
12 soldier who has said that he was working with two
13 other soldiers to kill a drug dealer and take their
14 money?

15 **A. Well -- so, I mean, at that point it's
16 really -- again, it's CID, MPs -- this stuff would be
17 reported to them and for them to actually figure out
18 what we're going to do with these guys. Because, I
19 mean, they would -- this is kind of in their hands.
20 This is -- if it's criminal offenses like this, this
21 isn't in like a company commander's hands, you know,
22 or -- this is more of working with CID and MPs and --
23 and getting to the bottom of what's going on here.**

24 Q. Now -- so until CID finishes its
25 investigation, are you allowed to do anything to the

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1 **knew he went to West Point. I'm just trying to
2 think.**

3 Q. I believe it was the -- what is it called?
4 The US MAPS? It's the Military Academy Preparatory
5 School. Are you familiar with that?

6 **A. Well, West Point, yes. I'm familiar with
7 West Point, yeah.**

8 Q. So I think, if I'm not mistaken, US MAPS
9 is sort of a pre-West Point program of sorts. Is
10 that consistent with your understanding?

11 **A. Yes, sir.**

12 Q. So is -- so you were not aware that he
13 attended that or was kicked out of that?

14 **A. I don't really remember on that one. I
15 don't think so. I don't think I knew.**

16 Q. If you had known that he had been kicked
17 out of West Point, say -- I'm not trying to testify
18 here, but I'm just saying -- if you had known that he
19 had been kicked out of West Point for threatening the
20 lives of two fellow cadets, would that be something
21 that would have factored into your decision about how
22 to punish him?

23 **A. I don't think so. I think it would be
24 all -- again, this is subjective on the situation, so
25 it depends on what the situation is.**

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22 (Pages 82 to 85)

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1 **Now, what he's done in the past, it's a
2 little different from what's currently happening.**

3 Q. But isn't it true that what's happened in
4 the past is sort of relevant for -- very relevant,
5 actually, for figuring out whether there is a pattern
6 of misconduct?

7 **A. Uh-huh. Yeah. And I think that's why we
8 gave him company grade and then gave him a field
9 grade, because it's a pattern of misconduct.**

10 Q. So after having received two Article 15s,
11 a company grade and then a field grade, was it even
12 more important then to keep track of whether Aguigui
13 was continuing to commit misconduct?

14 **A. So I think -- if I can remember right, I
15 think after the field grade -- I'm trying to
16 remember. After the field grade, I think we were
17 beginning to start the process of getting him out of
18 the Army.**

19 **So, I mean, at that point, yes, he's
20 monitored more because he's likely on restriction and
21 a lot of stuff like that, so -- and I think at the
22 time his wife was pregnant. So there's certain
23 things that we have to, you know, kind of let him --
24 let him do because his wife was pregnant.**

25 Q. So there was a little bit more leeway that

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1 Q. So why did you go to the funeral?

2 **A. Because it's one of my soldier's spouses,
3 so I went.**

4 Q. Did you ever socialize with Private
5 Aguigui?

6 **A. I guess just because he's -- was in an S-2
7 shop and he was around, so I probably talked to him
8 here and there.**

9 Q. Did you ever see Private Aguigui off base?

10 **A. No.**

11 Q. What were your impressions of him, just
12 socially?

13 **A. Socially? I mean, I didn't really
14 socially, I guess, talk to him. I mean, he was just
15 a soldier in the company. If I talked to him, it
16 would be like "Hey, how you doing?" And that's
17 really about it.**

18 Q. And did you ever sit down with him in
19 connection with these Article 15s?

20 **A. I'm sure I did to -- to read them his
21 Article 15 or tell him about what he's doing, I'm
22 sure. I'm sure I did. I don't remember
23 specifically.**

24 Q. Let me ask you a question about
25 developmental counseling forms. Those are done by

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1 was cut for him because of the situation he was in?

2 **A. Not necessarily, no.**

3 Q. Now, I'm not sure. Was he under your
4 command when his wife died?

5 **A. If you tell me the date, I could tell you.**

6 Q. July 17th, 2011.

7 **A. I can't really tell you specifically
8 because that's like the -- that rough buffer between
9 everybody coming back and then me, like, not doing --
10 or not being in the rear detachment anymore. So I
11 don't remember the exact time when -- when I no
12 longer was the rear detachment commander.**

13 Q. Okay. So --

14 **A. I do remember going to -- I did go to the
15 funeral. Sorry.**

16 Q. You did.

17 **A. Yeah.**

18 Q. And was Deirdre Aguigui under your
19 command?

20 **A. No.**

21 Q. Was it a big funeral?

22 **A. It was a small one. It was just some
23 family out there.**

24 Q. Did you know her?

25 **A. No.**

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1 the first line supervisor for a private?

2 **A. Yes.**

3 Q. So would you review those in deciding what
4 to do with the Article 15s?

5 **A. Well -- so the -- the counseling
6 statements, those are -- those are all at that chain
7 of command. So if that NCO gave a soldier a
8 counseling, that's within that soldier's counseling
9 file.**

10 **The only time I would see the counseling
11 is if stuff like this happened, like Article 15
12 needed to be recommended and they would then get all
13 those negative counseling statements together so that
14 they could be presented for an Article 15.**

15 Q. Now, are those prior -- are counseling
16 statements available to the first line supervisor?

17 You know, say if like it changes. Like, one guy is
18 the first line supervisor, and then, you know, when
19 the troops came back, it became someone else. Would
20 the second person be able to look back at that file
21 to see what the history was, or would they just have
22 to make decisions about --

23 **A. So typically when -- when people change
24 positions, they would do a hand-over of some sort.
25 So, yes, they would do some type of hand-over, but**

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23 (Pages 86 to 89)

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| <p style="text-align: center;">86</p> <p>1 they would talk to each other and say, "Hey, these 2 are my problem soldiers. These are my stellar 3 soldiers. These are the files," and then that's it. 4 And some type of continuity book, something like 5 that.</p> <p>6 Q. Now, if a counseling form says that, for 7 example, "You are not to consume alcohol, and if you 8 consume alcohol, you will be kicked out of the Army," 9 is that something that's binding like the -- if the 10 person is later found to have consumed alcohol or 11 something similar to that?</p> <p>12 A. Well, I mean -- so 600-20 says if a 13 soldier is -- as far as, like, substance abuse, if 14 they drink and they're violating substance -- excuse 15 me -- substance abuse or what have you, that you 16 would have to recommend Article 15 or -- it might be 17 chapter. One of the two.</p> <p>18 Q. Okay. And your recollection is that the 19 process of chaptering Aguigui out of the Army did 20 begin under command?</p> <p>21 A. I believe it did, yeah. And I think it 22 was after this field grade.</p> <p>23 Q. And how did that begin? What was the 24 first step in the process?</p> <p>25 A. Well, the field grade was -- well,</p> | <p style="text-align: center;">88</p> <p>1 out now, but --</p> <p>2 Q. I think he's at Fort Leavenworth, so I 3 think that means he's not. Is that right, if 4 you're --</p> <p>5 A. I'm not sure on that one.</p> <p>6 Q. I guess that's one of those things you 7 don't want to have to find out.</p> <p>8 A. Yeah.</p> <p>9 Q. So in Aguigui's case, obviously, then, the 10 chaptering process took more than 90 days. Correct?</p> <p>11 A. Likely, yes.</p> <p>12 Q. And do you recall why?</p> <p>13 A. I'm not sure exactly why. I think -- this 14 field grade, I'm not exactly sure when it happened. 15 So, I mean, whenever it happened, I'm sure there was 16 that time in between where we were trying to chapter 17 him out.</p> <p>18 Q. Do you recall whether he was resisting 19 being chaptered out?</p> <p>20 A. Not that I remember, no.</p> <p>21 Q. Which chapter was the basis for his 22 separation?</p> <p>23 A. I don't remember. I'm not exactly sure on 24 that one. What is on this thing?</p> <p>25 Q. Is that something where there would be</p> |
| <p style="text-align: center;">87</p> <p>1 actually, the company grade was the first -- the 2 first step in the process. Then you go to the field 3 grade, and at that point it's -- soldier needs -- 4 soldier is no longer benefiting the Army.</p> <p>5 Q. Okay. So how long does the process of 6 chaptering someone out typically take?</p> <p>7 A. It really depends on -- on the chapter, 8 and then it could go anywhere from -- I don't know -- 9 ten days all the way to 90 days. So, I mean -- or -- 10 or longer. It just depends on -- on the chapter.</p> <p>11 Q. And what do you mean by that, "depends on 12 the chapter"?</p> <p>13 A. Depends on the type of chapter. Like, 14 there's different types of soldiers getting in and 15 out -- I mean, it could be chapters because of 16 substance abuse or for misconduct, stuff like that. 17 So it's just different ways to be chaptered out of 18 the Army.</p> <p>19 Q. Okay. And do you recall how long it took 20 to chapter Aguigui out of the Army?</p> <p>21 A. I think he was still in when everything 22 happened. I'm not -- I'm not sure exactly, yeah.</p> <p>23 Q. Right. So --</p> <p>24 A. I don't think he was ever actually 25 chaptered. I'm sure he might be -- he probably is</p> | <p style="text-align: center;">89</p> <p>1 records of what the chapter was?</p> <p>2 A. It may be, but I'm not sure.</p> <p>3 Q. Can you think of anything, you know, 4 somewhere where a document had to be filed or a form 5 that was filed in order to start -- you know, in 6 order to push the chaptering process along?</p> <p>7 A. Yes. I mean, I guess administratively, 8 there is likely some form of documents, but do I have 9 it? No.</p> <p>10 Q. Right.</p> <p>11 A. Yeah.</p> <p>12 Q. Can you think of who would have that if 13 there was an administrative form?</p> <p>14 A. The unit.</p> <p>15 Q. What is a flag when put on someone's 16 personnel file?</p> <p>17 A. So when a soldier is -- has done something 18 that causes him to get flagged, basically what it is 19 is it prevents favorable actions. So he can no 20 longer, like, receive good conduct medals, they can't 21 get promoted, stuff like that.</p> <p>22 (Exhibit 8 was marked.)</p> <p>23 Q. (BY MR. BROOK) I'm going to show you 24 what's been marked as Exhibit 8.</p> <p>25 MR. BROOK: This is Bates-stamped</p> |

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24 (Pages 90 to 93)

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| <p style="text-align: center;">90</p> <p>1 JAHRO008454.</p> <p>2 Q. (BY MR. BROOK) Do you recognize this</p> <p>3 document?</p> <p>4 A. Yes. It is a flag.</p> <p>5 Q. It's called a report to suspend favorable</p> <p>6 personnel actions?</p> <p>7 A. Uh-huh.</p> <p>8 Q. And is this one that you authorized?</p> <p>9 A. Yes.</p> <p>10 Q. And the date on there, 2011, 07/01, that's</p> <p>11 July 7th, 2011. Correct? Or --</p> <p>12 A. July 1st.</p> <p>13 Q. July 1st. I'm sorry.</p> <p>14 And do you recall whether this was before</p> <p>15 or after the field grade chapter?</p> <p>16 A. This is -- I'm going to say it was</p> <p>17 probably in concurrent with it because he was</p> <p>18 flagged, so then -- because he -- because he got a</p> <p>19 field grade Article 15, he was likely being flagged</p> <p>20 because of it.</p> <p>21 Q. And what does that mean to -- under</p> <p>22 Section 2, the box that's checked is "Adverse</p> <p>23 Action"?</p> <p>24 A. This is the adverse action.</p> <p>25 Q. Is the field grade Article 15?</p> | <p style="text-align: center;">92</p> <p>1 Aguigui out.</p> <p>2 A. Right. So, I mean, it starts with the</p> <p>3 company grade, field grade Article 15.</p> <p>4 Q. Okay.</p> <p>5 A. So that's like the -- you're taking the</p> <p>6 steps to prepare to get the soldier out of the Army.</p> <p>7 Q. Now, once the steps begin, though, does</p> <p>8 that mean that the person might not leave the Army?</p> <p>9 They might correct their behavior and --</p> <p>10 A. I mean, it's a possibility, yeah.</p> <p>11 Q. Is that common?</p> <p>12 A. I won't say it's common, but it can</p> <p>13 happen.</p> <p>14 Q. Do you recall any specific instance where</p> <p>15 that happened at Fort Stewart?</p> <p>16 A. I can't recall an instance, no.</p> <p>17 Q. Okay. So as far as you can recall, the</p> <p>18 intention was to have both Isaac Aguigui and</p> <p>19 Christopher Salmon out of the Army. Is that right?</p> <p>20 A. Salmon, not so much because, I mean, I</p> <p>21 didn't -- the only adverse action I've actually given</p> <p>22 to Salmon was that -- the travel voucher incident.</p> <p>23 So aside from that, I didn't have any issues with</p> <p>24 Salmon.</p> <p>25 Now, Aguigui, he -- he had a little more</p> |
| <p style="text-align: center;">91</p> <p>1 A. Yeah.</p> <p>2 Q. And there's nothing else that that</p> <p>3 connotes?</p> <p>4 A. Yeah, this is it. It's the field grade</p> <p>5 Article 15.</p> <p>6 Q. Now, would this form indicate whether or</p> <p>7 not the soldier's being chaptered out?</p> <p>8 A. I don't think so, no.</p> <p>9 Q. Do you know what the form is, if there is</p> <p>10 another form administratively that has to be filed to</p> <p>11 do the chaptering process?</p> <p>12 A. There is another form, but I'm not sure.</p> <p>13 I don't remember the form number or nothing like</p> <p>14 that.</p> <p>15 Q. Is that a form that you remember filling</p> <p>16 out for Aguigui, though?</p> <p>17 A. No, I don't remember.</p> <p>18 Q. Do you remember filling it out for Salmon?</p> <p>19 A. No, no. Because I didn't chapter Salmon.</p> <p>20 Or I didn't chapter Aguigui.</p> <p>21 Q. You didn't chapter Aguigui?</p> <p>22 A. No, I didn't chapter -- those guys were</p> <p>23 still in the Army when I left.</p> <p>24 Q. Okay. So it was the -- but I thought</p> <p>25 you'd said that the process was beginning to chapter</p> | <p style="text-align: center;">93</p> <p>1 on his -- on his -- under his belt as far as issues.</p> <p>2 So a chapter was -- was definitely in the works for</p> <p>3 him just because of the benefit -- he was -- there</p> <p>4 was no benefit for him being in the Army. The Army</p> <p>5 was not being helped with Aguigui in the Army.</p> <p>6 Q. And did you have any interaction or</p> <p>7 involvement with Aguigui or any of his supervisors</p> <p>8 about Aguigui after July of 2011?</p> <p>9 A. Likely, yeah.</p> <p>10 Q. Do you recall anything specifically?</p> <p>11 A. No. No. But likely, yes, I would -- more</p> <p>12 than likely, if it involves Aguigui, some of this</p> <p>13 stuff was probably talked about. I don't know.</p> <p>14 Q. Do you recall whether you knew that he was</p> <p>15 being investigated for murdering his wife?</p> <p>16 A. So that part -- I do remember that. We</p> <p>17 wasn't sure on that just because -- I mean, we don't</p> <p>18 know if he murdered his wife. The reports that came</p> <p>19 out was -- was that she had a blood clot.</p> <p>20 Q. So who gave the report that she had had a</p> <p>21 blood clot?</p> <p>22 A. I don't remember it specifically, no.</p> <p>23 Q. But that was your understanding?</p> <p>24 A. Yeah, that was my understanding, was that</p> <p>25 she had a blood clot.</p> |



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25 (Pages 94 to 97)

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| <p style="text-align: center;">94</p> <p>1 Q. Okay. Do you recall discussing that with 2 anyone in particular?</p> <p>3 A. Probably -- probably Sergeant Braudis, my 4 NCYC.</p> <p>5 Q. How do you spell that?</p> <p>6 A. B-R-A-U-D-I-S.</p> <p>7 Q. Now, is this something where it was sort 8 of a topic of gossip at the base about the whole 9 Deirdre Aguigui investigation?</p> <p>10 A. I'm not going to say it was gossip, but, I 11 mean, like as the commander and the NCYC of the rear 12 detachment, you kind of got to figure out what's 13 somewhat going on, like what happened to the wife. 14 You're like, "All right. Well, she had a blood 15 clot," you know. And then from there, you kind of 16 take the steps to make sure the soldier's okay, you 17 know, and then make sure the wife is taken care as 18 far as like funeral arrangements and stuff like that 19 and that Aguigui is taking care of those things. So 20 that's what myself and Sergeant Braudis was doing.</p> <p>21 Q. So did you ever talk with Private Aguigui 22 about his wife having died?</p> <p>23 A. Oh, yes, I'm sure I did. I mean, just not 24 -- of course, we didn't know about all the stuff that 25 happened, but before then, you know, it's just</p> | <p style="text-align: center;">96</p> <p>1 Q. And what did you hear about that?</p> <p>2 A. I mean, I -- not a whole lot. Aside from 3 after everything happened, I found out what -- what 4 it was used for. But before that, beforehand, it was 5 just to take care of funeral arrangements and stuff.</p> <p>6 Q. Now -- so when did you first learn about 7 what Aguigui was actually doing with the money?</p> <p>8 A. I think when I saw it on the news. Yeah.</p> <p>9 Q. So in December 2011?</p> <p>10 A. Yeah. Whenever it was on the news is when 11 we found out, like, hey, this is the stuff that was 12 going on.</p> <p>13 Q. Now, when you found out this -- that was 14 what was going on, were you surprised?</p> <p>15 A. Yes. Very surprised.</p> <p>16 Q. Why was that?</p> <p>17 A. I had no clue. Didn't know that stuff was 18 happening.</p> <p>19 Q. So do you know how many people at the end 20 of the day who were under your command who ended up 21 being convicted of a crime?</p> <p>22 A. So I was only tracking four. Those four 23 dudes.</p> <p>24 Q. Did you follow at all the other 25 convictions? There were, I think, seven other people</p> |
| <p style="text-align: center;">95</p> <p>1 typical remorse stuff. "Hey, sorry about your wife 2 dying," and talking to the soldier about his morale 3 and stuff like that.</p> <p>4 Q. Now, did you have any involvement at all 5 in his receiving death benefits or life insurance 6 benefits?</p> <p>7 A. I don't remember. I'm sure I pulled his 8 SGLI to make sure he had SGLI or something.</p> <p>9 Q. Do you recall what the amounts were --</p> <p>10 A. No.</p> <p>11 Q. -- or whether he got paid?</p> <p>12 A. No. Now, I guess I recall the amounts, 13 yes, because I believe he had the full SGLI benefits.</p> <p>14 Q. So what was the amount?</p> <p>15 A. 400,000.</p> <p>16 Q. And are there other payments that are made 17 in addition to the SGLI benefit?</p> <p>18 A. I think -- of, for the spouse, yeah. So 19 this is just typical or general -- general stuff is 20 that -- general knowledge stuff is the wife will get 21 100,000, you know, if the wife dies or the soldier 22 dies or something like that.</p> <p>23 Q. And did you ever hear about Private 24 Aguigui actually receiving this money?</p> <p>25 A. Yes.</p> | <p style="text-align: center;">97</p> <p>1 who were ultimately convicted by the State of 2 Georgia.</p> <p>3 A. No. I'm not sure who the other guys are.</p> <p>4 Q. Did you ever get interviewed by any 5 investigative agency?</p> <p>6 A. No.</p> <p>7 Q. Would you have remembered it if you had 8 been interviewed by an investigative agency?</p> <p>9 A. I think so. I don't remember being 10 interviewed, but yeah.</p> <p>11 Q. Is that something that would be a 12 memorable event for you?</p> <p>13 A. I think so, yeah.</p> <p>14 Q. You'd be surprised.</p> <p>15 So do you recall -- you mentioned before 16 that CID had some conversations with you about 17 Private Aguigui. Did they talk with you about the 18 investigation that we were talking about earlier 19 regarding the drug dealer and spice and such, or was 20 it about the investigation into him because of his 21 wife's death?</p> <p>22 A. I'm thinking it was about the whole -- the 23 other thing, the spice thing. So I don't remember 24 exactly specific on that, yeah.</p> <p>25 Q. And were you ever told that Aguigui had</p> |

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| <p style="text-align: center;">98</p> <p>1 admitted to using spice on a regular basis? 2 A. Not that I remember. 3 Q. Were you ever told that he used had 4 cocaine while on active duty? 5 A. No, not that I remember. 6 Q. And what about that he had sold marijuana? 7 A. Not that I remember, no. 8 Q. Now, based upon having later been totally 9 shocked by the news of this group of, you know, 10 misfit soldiers underneath your command at one point 11 in time, have you done anything differently since 12 then to try to make sure that something like that 13 never happens again? 14 A. No, I don't think so, because I think we 15 did the corrective actions to -- to ensure that 16 soldier -- we were doing the right thing, yeah. 17 Q. Now, are you aware of the fact that 18 Aguigui was paying off one of his supervising 19 sergeants in order to get out of being reported for 20 missing duty on a regular basis? 21 MS. JOHNSON: Objection; assumes 22 facts not in evidence. 23 A. Oh. So no. 24 Q. (BY MR. BROOK) So I'm just wondering, is 25 this something that you've heard about happening?</p> | <p style="text-align: center;">100</p> <p>1 supervising? 2 A. I have no clue why, no. 3 Q. Can you think of any illegitimate reasons 4 why an NCO would receive money from a soldier he's 5 supervising? 6 A. I don't know. 7 Q. You just don't think that way. Right? 8 A. No. 9 Q. That's fine. 10 For a soldier with a top-secret security 11 clearance, is it important that that soldier not have 12 a drug abuse problem? 13 A. I guess you'd say yes. But I'm sure when 14 the soldier's TS is given, stuff like that -- stuff 15 happens to people, so it's a little different. 16 Q. So if someone had had a history of drug 17 abuse, is that the reason why they would not receive 18 a TS security clearance? 19 A. No. I'm not a issuing official, so I 20 couldn't tell you specifically. But I'm sure that 21 they would kind of look into it and go deep into 22 their background before they issue somebody a TS. 23 Q. So who is in charge of deciding whether to 24 revoke a TS security clearance? 25 A. I'm not sure. I'm assuming that would be</p> |
| <p style="text-align: center;">99</p> <p>1 A. No. 2 Q. Is a soldier allowed to accept money from 3 a subordinate in order to not report their 4 activities? 5 A. No. 6 Q. Do you know the circumstances under which 7 another soldier is allowed to receive money from -- 8 or when -- let me rephrase that. 9 Do you know under what circumstances, if 10 any, an NCO is allowed to accept money from a soldier 11 under his supervision? 12 A. No. You shouldn't. No. 13 Q. What if he was being reimbursed for 14 something, like money that he had loaned the soldier? 15 Would that be okay? 16 A. I'm not sure on that one really. That's 17 kind of like subjective, so I don't know. I can't 18 really -- 19 Q. Do you even know if it's okay to loan a 20 soldier money who's under your command? 21 A. No, I'm not sure on that one. No. I 22 don't know. 23 Q. Can you think of any legitimate reasons 24 why an NCO would be receiving an envelope full of a 25 thousand dollars cash from a soldier he's</p> | <p style="text-align: center;">101</p> <p>1 in the military intelligence realm. I don't know. 2 Q. Okay. But the people who were in the rear 3 D for the S-2 section, they were under your command 4 at one point. Correct? 5 A. Yes. 6 Q. So if someone in that section -- you know, 7 if they had to have a TS security clearance and they 8 had a ton of misconduct and frequently, you know, 9 consorting with foreign citizens, say, who would you 10 go to to report that based on concerns about 11 classified information being -- 12 A. Right. I mean, that would likely be to, 13 like, the brigade level or division level, like S-2 14 personnel, stuff like that. 15 Q. Do you know whether the brigade or 16 division-level personnel were ever involved in 17 reviewing Private Aguigui's -- 18 A. I don't know. I don't know. 19 Q. Did you ever discuss it with them? 20 A. No. 21 Q. Do you recall who up the chain of command, 22 if anyone, you discussed Private Aguigui with while 23 you were his commanding officer? 24 A. Say again. 25 Q. Do you recall who, if anyone, you</p> |

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1 discussed Private Aguigui's situation with when you
 2 were his commanding officer?

3 **A. Well, probably be my commander. So, more**
 4 **likely, Colonel Reynolds.**

5 Q. And would he have been the person who
 6 approved the field grade Article 15?

7 **A. No. Actually, since he was -- he was**
 8 **forward, it would have been -- I don't remember his**
 9 **name, but another -- the rear D colonel. So I don't**
 10 **remember his name, no.**

11 Q. So Colonel Reynolds was the rear D
 12 colonel?

13 **A. No, no. He was the forward. He was the**
 14 **actual squadron commander.**

15 Q. Okay. So for the field grade Article 15,
 16 you're saying it was the rear D colonel?

17 **A. Yes.**

18 Q. And you don't recall his name?

19 **A. I don't remember his name.**

20 MR. BROOK: Give me just a second
 21 here.

22 We can go off the record here and
 23 take a break.

24 (Break.)

25 (Exhibit 9 was marked.)

104

1 constantly about anarchy and how he disliked the
 2 Army. SPECIALIST ROSARIO stated PRIVATE AGUIGUI
 3 spent nearly \$20,000 at Temptations in October
 4 2011" -- or "October 11 and" -- "or November 11 for
 5 himself, SPECIALIST HOLLAND, PRIVATE JENDERSECK,
 6 SPECIALIST WATSON-SMOKES, PRIVATE ROBERTSON, and
 7 PRIVATE BURNETT." Those are, I guess, the people for
 8 whom money was spent.

9 Now, I got -- first, just a couple of
 10 questions to understand. What does the 4IBCT area
 11 mean?

12 **A. Oh, that's our brigade area.**

13 Q. Okay. About how big an area is that?

14 **A. I don't know. I can't really explain how**
 15 **big the area is. It's a whole -- to house the whole**
 16 **brigade. So, I mean, it's like one, two, three,**
 17 **four -- it's like six battalions or something like**
 18 **that. It's pretty large.**

19 Q. So about how much of Fort Stewart is the
 20 4IBCT area?

21 **A. I don't know. Maybe 25 percent.**

22 Q. And do you know what Temptations is?

23 **A. I think it's a strip club. I don't know.**

24 Q. That's a fine answer. I'm not going to
 25 press you on that one.

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1 Q. (BY MR. BROOK) Captain, I've shown you
 2 what's been marked as Exhibit 9. I'm not asking you
 3 to read the whole thing. This is not a document that
 4 you wrote. It's an agent's investigative report with
 5 the Bates number on it APCID00057 through APCID00059.

6 On Page 3, if you could please take a
 7 second and -- well, just for the sake of convenience,
 8 I'll read it aloud, and you can read along with me.
 9 If I get anything wrong, note it for the record.

10 This is drafted by Special Agent Jeremy
 11 Foxx. The date of the report is 8 February 2012.

12 And the second paragraph of Page 3 says,
 13 >About 1030, 8 February 12, SA FOXX interviewed SPC,"
 14 Specialist, "David E. ROSARIO," R-O-S-A-R-I-O, last
 15 four Social Security "2081, HHT 6-8 CAV" -- and I'm
 16 going to leave out the rest of the designations here
 17 just for the sake of the record -- "regarding his
 18 relationship with the individuals involved.

19 SPECIALIST ROSARIO stated he was approached to work
 20 for PRIVATE AGUIGUI'S security company when he left
 21 the Army and he declined. SPECIALIST ROSARIO stated
 22 PRIVATE AGUIGUI discussed openly how he would conduct
 23 active shooter situations on Ft. Stewart and how he
 24 mapped out the sewer system in the 4IBCT area.
 25 SPECIALIST ROSARIO stated PRIVATE AGUIGUI talked

105

1 **A. I'm not sure.**

2 Q. And are any of those names of people who
 3 were included in the -- the money that was being
 4 spent on, do those rings any bells other than the
 5 ones we talked about?

6 **A. Yes. I mean, I don't know Holland, but I**
 7 **know Jenderseck. I think I know Watson-Smokes. I'm**
 8 **not sure who Robertson is. I know Burnett.**

9 Q. Okay. Now, does -- were you aware that --
 10 I guess what Specialist Rosario reported to Special
 11 Agent Foxx, were you aware that this had had happened
 12 at the time?

13 **A. No, I don't believe so.**

14 Q. To your knowledge, had anyone reported
 15 that Aguigui had been discussing openly active
 16 shooter situations?

17 **A. No. I mean, this is the first time I**
 18 **actually heard about it.**

19 Q. Does it concern you that he was talking
 20 openly about an active shooter situation?

21 **A. Yes. It is concerning, yes.**

22 Q. Do you believe that Specialist Rosario did
 23 anything wrong by not reporting that sooner?

24 **A. I don't think he did anything wrong,**
 25 **but -- yeah, I don't think he did anything wrong. I**

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| <p style="text-align: center;">106</p> <p>mean, it's just kind of the way he interpreted it.</p> <p>Q. Now, do you know whether Aguigui was under surveillance at any time while he was at Fort Stewart?</p> <p>A. I'm not sure if he was. Maybe CID was. I'm not sure.</p> <p>Q. Is that something where you would be involved in the discussion about whether to surveil a soldier?</p> <p>A. I think CID would probably inform me, but I don't remember if they actually did inform me on this one. But they probably did.</p> <p>Q. Okay. And do you have any opinion about whether Private Aguigui should have been under surveillance?</p> <p>A. I mean, I -- with what happened, I mean, I'm sure yes, but --</p> <p>MS. JOHNSON: An opinion now or then.</p> <p>A. Yeah. An opinion now or then?</p> <p>Q. (BY MR. BROOK) Opinion now.</p> <p>A. Opinion now, yeah, of course. I mean, he obviously was doing a lot of things. But back then, I mean, you don't know that stuff.</p> <p>Q. Right. Now, if you had known this</p> | <p style="text-align: center;">108</p> <p>sure he's qualified to answer that.</p> <p>A. Yeah, I'm not sure on that one.</p> <p>Q. (BY MR. BROOK) You don't know the answer?</p> <p>A. Yeah, I'm not sure the exact answer on that one, no.</p> <p>Q. Okay. Do you ever learn about a soldier's misconduct from CID?</p> <p>A. I mean, I guess you could say yes.</p> <p>Just -- you mean something like this? I mean, if you receive something like this, you then know what misconduct they've done if they're doing some type of investigation, yeah.</p> <p>Q. Now, is this something that -- you know, when misconduct like this, say, happens, can that be used to speed up a chapter packet for a soldier?</p> <p>A. I'm sure it's something that can go in the packet. But as far as speeding it up, I'm not sure. I couldn't tell you. I don't know.</p> <p>Q. Now, as a commander for rear D and if you found out that -- you know, if you had found out at the time about something like this -- now, I know you wouldn't organize surveillance because that's CID, according to what you said. But what actions, if any, would you take towards a soldier who was saying things like this to his fellow soldiers?</p> |
| <p style="text-align: center;">107</p> <p>information that -- reported by David Rosario, do you think that would have been important in deciding whether Aguigui should have been under surveillance?</p> <p>A. Yes, I think that would have been important to know. And if CID was tracking him already, I mean, that's CID. That's their -- at that point, that's them. You know, they've already -- if they've received that information, CID takes on that -- that -- that specific case.</p> <p>Q. Now, does CID have any authority or influence in terms of what a soldier's duties or responsibilities are?</p> <p>A. Command authority? No, they don't have command authority, but they -- they have the ability to -- to investigate things like this.</p> <p>Q. Okay. So -- but, you know, say their investigation is ongoing in some respects, but in the course of their investigation into one very serious thing, like murder, they've learned a litany of other misconduct. Is that something where they would have to report that to command for them to be able to act on the other misconduct and not have to sit around and wait for them to figure out the much harder question about a murder?</p> <p>MS. JOHNSON: Objection. I'm not</p> | <p style="text-align: center;">109</p> <p>A. Well, I mean, as far as this goes, if I knew this was happening, I would contact CID and let them know what's happening. I mean, just realistically, that is just what I would do. Contact CID or the MPs and let them know what's happening.</p> <p>And then from there, it would just really be what they find, because I can't just -- because these are assumptions, you know. I can't just say, "I'm now going to do surveillance on this guy because of what an assumption or a perception is," you know.</p> <p>Q. Now, are you required to wait for CID to do something with that before you can take any action?</p> <p>A. I can't take action if I don't know if it's true or not.</p> <p>Q. Okay. So you would need to have CID say whether or not Rosario and what he was claiming Aguigui said was true?</p> <p>A. Right.</p> <p>Q. Would you be able to take any action just, you know, nonpunitive to try to, you know, separate the soldier from the other soldiers and prevent something like this from going on in case it was going on?</p> <p>A. I mean, I can't do anything if I don't</p> |

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| <p style="text-align: center;">110</p> <p>know it's true or not.</p> <p>Q. Okay. So just mere allegations from other soldiers, you couldn't do anything on that?</p> <p>A. Right. If it's just an allegation, then there's really nothing I could do there.</p> <p>Q. Okay.</p> <p>MR. BROOK: I think that about wraps up here. Let me just go over my notes real quick.</p> <p>Q. (BY MR. BROOK) Were you aware of whether Private Aguigui had a protective order against him by his wife?</p> <p>A. I don't remember. Yeah, I don't remember.</p> <p>Q. Is --</p> <p>A. I'm -- I feel like there probably was, but I don't remember specifically, no.</p> <p>Q. Okay. I'm not going to waste time with you looking at it now, but is it something that's typically brought to the commander's attention when there's a protective order put in place with respect to one of the soldiers under his command?</p> <p>A. Yes. Yeah.</p> <p>Q. And what happens if a soldier under your command violates a protective order?</p> <p>A. Well, I mean, he could get some type of</p> | <p>1 that this happened, that you heard from other soldiers and you've concluded that, yes, these actions occurred. Are you able to take action on that just because CID decided not to do so?</p> <p>A. If I don't know if it's true or not, I can't get -- I can't do any kind of -- anything to that soldier if I don't think it happened or if I just assume or think it's a perception or something like that. I can't just take action on something that's not deemed true.</p> <p>Q. So -- but you agree that people could disagree about what's true or not in terms of investigating a situation?</p> <p>A. No. I mean, if it's facts, it's facts. There's facts or not facts. There's perception; there's facts.</p> <p>Q. So, in your opinion, you -- if CID made a conclusion not to prosecute someone, that would mean that you can't do anything with it as commander through the chain of command?</p> <p>A. Right, because they had no facts.</p> <p>Q. So your understanding is that they would have no facts to support their position if CID turned down a case?</p> <p>A. I mean, if they can't find anything true,</p> |
| <p style="text-align: center;">111</p> <p>UCMJ actions for it.</p> <p>Q. Okay. Is that something where you would take action?</p> <p>A. It all depends. I mean, I would consult my legal advisors and see what we could do.</p> <p>Q. Let me ask you a question. Again, I'm just trying to understand.</p> <p>So what if -- you know, the situation with CID, they investigate something and they say that, you know, they can't prove that it's true. Do you know what their burden of proof is in order to take action?</p> <p>A. No. I don't know.</p> <p>Q. Is it beyond a reasonable doubt?</p> <p>A. Like -- I don't know. I mean, I would assume they would have to have, like, straight facts.</p> <p>Q. Now, as a commander making decisions on, say, nonjudicial punishment, do you have to have proof beyond a reasonable doubt that the actions occurred?</p> <p>A. I mean, it has to be an informed decision. I have to know. I can't just say, "I'm going to punish you because I think you did this." I can't do that.</p> <p>Q. But what if you, in your heart, believed</p> | <p>113</p> <p>I mean, what -- there's nothing you can do there, you know.</p> <p>Q. Now, is this --</p> <p>A. I'm not going to say -- I'm not going to do something to a soldier because I think they did this. It has to be a fact. There has to be something that says that this happened.</p> <p>Q. Right. So two different investigators could come to different conclusions, though. Right?</p> <p>MS. JOHNSON: Let me object, because he's not qualified to testify about CID investigations.</p> <p>Q. (BY MR. BROOK) What I'm trying to understand, Captain, just -- did you receive any sort of training or supervision about what to do with a soldier regarding, you know, sort of non-court marshal-type procedures if CID has investigated an incident but they have declined to prosecute an incident?</p> <p>A. I'm not sure if I'm fully understanding your question.</p> <p>Q. Did you receive -- so what I'm saying is, under the situation where CID has investigated potential criminal activity and has declined to prosecute it, does that mean -- or forget what that</p> |

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| <p>114</p> <p>means. What I'm asking is, under that situation, 2 were you given any sort of instruction or guidance at 3 any point in time in your career about what you as a 4 commanding officer could do with respect to providing 5 nonjudicial punishment or other sorts of measures 6 towards the soldier?</p> <p>A. I mean, a lot of it is all situation dependent. It really is. It's all situation dependent. And then from there, what happens to a soldier because of what -- what they did or they didn't do, I have to go on facts. I can't go off of assumptions or anything like that. It has to be -- it has to be facts for me to process something.</p> <p>Q. So what if -- under this situation? Say you find out that a soldier, you know, has accused Aguigui of going around the barracks and threatening to kill lots of people, and you've reported it to CID, but you're hearing reports that it's continuing to occur and CID is not taking action on it, and you feel that's a problem, because you believe that it's really happening. Are you able to take action against the soldier, or do you have to wait for CID?</p> <p>MS. JOHNSON: Objection --</p> <p>A. Yeah, I'm not sure.</p> <p>MS. JOHNSON: Objection; calls for</p> | <p>116</p> <p>1 ACKNOWLEDGMENT OF DEPONENT 2 3 I, _____, do hereby 4 acknowledge that I have read and examined the 5 foregoing testimony, and the same is a true, correct 6 and complete transcription of the testimony given by 7 me, and any corrections appear on the attached Errata 8 Sheet signed by me. 9 10 11 _____ 12 (DATE) ZONIE DANIELS IV 13 14 15 16 17 18 19 20 21 22 23 24 25</p> |
| <p>115</p> <p>speculation.</p> <p>Q. (BY MR. BROOK) I'm asking for your understanding based upon the training that you've received and your understanding of your command authority. Do you have to wait for CID to finish its investigation even if you think CID is taking way too long and you believe that the Army in your command is being put at risk as a result?</p> <p>MS. JOHNSON: Same objection.</p> <p>Q. (BY MR. BROOK) Please answer.</p> <p>A. Yeah, I would definitely just -- I'm not sure, but, again, I would -- like, legal. I would talk to my legal advisors, talk to CID, stuff like that. So that's really the steps I would take.</p> <p>Q. But you have not been confronted with that situation because you didn't get the information of this incident?</p> <p>A. Right. Right.</p> <p>MR. BROOK: I think I've got no further questions, then.</p> <p>MS. JOHNSON: I've got nothing.</p> <p>(THE DEPOSITION CONCLUDED AT 4:07 P.M.)</p> | <p>117</p> <p>1 IN THE UNITED STATES DISTRICT COURT 2 WESTERN DISTRICT OF WASHINGTON 3 AT SEATTLE 4 TRACY JAHR, BRENDA § 5 THOMAS, TIMOTHY LEE YORK, § 6 AND W. BRETT ROARK, § 7 § CIVIL ACTION 8 Plaintiffs, § NO. 2:14-cv-01884-MJP 9 § 10 VS. § 11 § 12 UNITED STATES OF AMERICA, § 13 § 14 Defendant. § 15 16 REPORTER'S CERTIFICATION 17 DEPOSITION OF ZONIE DANIELS IV 18 TAKEN JANUARY 28, 2016 19 20 I, Tamara Chapman, Certified Shorthand Reporter 21 in and for the State of Texas, hereby certify to 22 the following: 23 That the witness, ZONIE DANIELS IV, was duly 24 sworn by the officer and that the transcript of 25 the oral deposition is a true record of the</p> |

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1 testimony given by the witness;
 2 That the original deposition was delivered to
 3 Mr. Brian C. Brook;
 4 That a copy of this certificate was served on
 5 all parties and/or the witness shown herein on
 6 _____.
 7 I further certify that pursuant to FRCP
 8 No. 30(f)(i) that the signature of the deponent:
 9 X was requested by the deponent or a party
 10 before the completion of the deposition and that
 11 the signature is to be returned within 30 days
 12 from date of receipt of the transcript. If
 13 returned, the attached Changes and Signature Page
 14 contains any changes and the reasons therefor;
 15 _____ was not requested by the deponent or a
 16 party before the completion of the deposition.
 17 I further certify that I am neither counsel
 18 for, related to, nor employed by any of the
 19 parties in the action in which this proceeding
 20 was taken, and further that I am not financially
 21 or otherwise interested in the outcome of the
 22 action.
 23 Certified to by me this 18th day of February, 2016
 24
 25

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